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IN THE

Supreme Court of the United States

OCTOBER TERM, 1976

No. 76-933

CLIFF FINCH, GOVERNOR OF MISSISSIPPI, ET AL., *Appellants*

v.

PEGGY J. CONNOR, ET AL., *Appellees*

and

THE UNITED STATES OF AMERICA, *Intervenor*

On Appeal from the United States District Court for the Southern District of Mississippi (Three-Judge Court)

JURISDICTIONAL STATEMENT

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THE UNITED STATES OF AMERICA, *Intervenor*

On Appeal from the United States District Court for the Southern District of Mississippi (Three-Judge Court)

JURISDICTIONAL STATEMENT

This is an expedited appeal by the defendants [1] from the judgment of the United States District Court for

[1] The defendants in this action are: Cliff Finch, Governor of Mississippi; A.F. Summer, Attorney General of Mississippi; Heber Ladner, Secretary of State of Mississippi; Evelyn Gandy, Lieutenant Governor of Mississippi and Presiding Officer of the Mississippi Senate; William B. Alexander, President Pro Tempore of the Mississippi Senate; and C. B. "Buddie" Newman, Speaker of the Mississippi House of Representatives, et al.

Defendants in the district court are appellants here and appellees were the plaintiffs in the district court. This jurisdictional statement will refer to the parties as they stood in the district court.

the Southern District of Mississippi (three-judge court) entered on November 18, 1976, ordering into effect for the 1979 regular quadrennial elections a statewide single-member district legislative reapportionment plan and ordering two special elections in House Districts 79 and 97. Defendants submit this Statement to show that the Supreme Court of the United States has jurisdiction of the appeal and that substantial questions are presented.

OPINIONS BELOW

The opinions of the district court entered on August 24 (App. A, 1a), September 8 (App. B, 27a), and November 12, 1976 (App. C, 47a) are not yet reported.

JURISDICTION

Pursuant to this Court's order on May 19, 1976, *Connor* v. *Coleman*, — U.S. —, 96 S. Ct. 1814, the three-judge district court held hearings and promulgated a permanent legislative reapportionment plan. The judgment of the three-judge district court was entered on November 18, 1976 (App. D, 56a) and was subsequently amended by Order on December 22, 1976 (App. E, 77a). A notice of appeal was filed in that court on December 30, 1976 (App. F, 81a). The jurisdiction of this Court to review that judgment by direct appeal is conferred by 28 U.S.C. § 1253. The following decisions sustain the jurisdiction of this Court: *Chapman* v. *Meier*, 420 U.S. 1 (1975); *White* v. *Regester*, 412 U.S. 755 (1973); *Mahan* v. *Howell*, 410 U.S. 315 (1973).

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by ordering a permanent legislative reapportionment

plan for the 1979 legislative elections based entirely on single-member districts which fractionalized a majority of the State's counties and county supervisors districts.

2. Whether the district court erred in ordering special elections notwithstanding its findings that the political processes in Mississippi leading to nomination and election are in fact equally open to all persons regardless of race.

STATEMENT OF THE CASE

1. Judicial review of the apportionment of the Mississippi State legislative districts began over ten years ago when the three-judge district court invalidated as unconstitutional the apportionment as it then existed. *Connor* v. *Johnson*, 256 F.Supp. 962 (S.D. Miss. 1966). A reapportionment plan promulgated by the State Legislature in 1966 was also found to be unconstitutional by the same three-judge district court which proceeded to enter a decree reapportioning the legislative districts for the 1967 elections. *Connor* v. *Johnson*, 265 F.Supp. 492 (S.D. Miss. 1967). There was no appeal from either of these decisions.

The 1971 legislative reapportionment plan was invalidated by the three-judge district court for containing impermissible population variances. A reapportionment plan for the 1971 election was formulated and decreed by the district court. *Connor* v. *Johnson*, 330 F.Supp. 506 (S.D. Miss. 1971). Although the court held that when a county elected four or more representatives from within its boundaries "it would be ideal if it could be divided into districts, for the election of one member to the district," the court plan,

nevertheless, provided for Hinds, Harrison and Jackson counties to each elect four or more representatives from within their borders without being divided into districts. *Id.* at 519. The court found that the three exceptions were necessitated by the short time remaining prior to the deadline for filing notices of candidacy for the 1971 elections. On a motion for stay, this Court directed that the filing date for legislative candidates from Hinds County be extended and instructed the district court, "absent insurmountable difficulties, to devise and put into effect a single-member district plan" for Hinds County. *Connor* v. *Johnson,* 402 U.S. 690, 692 (1971). The district court found that it was "confronted with insurmountable difficulties," and thus "impossible" to divide Hinds County into single-member districts in time for the 1971 elections. *Connor* v. *Johnson,* 330 F.Supp. 521, 523 (S.D. Miss. 1971). This Court declined to impugn that finding. *Connor* v. *Johnson,* 403 U.S. 928 (1971).

The district court did retain jurisdiction over the multi-member district Counties of Hinds, Harrison and Jackson and stated that a Special Master would be appointed by January 1972 to determine the feasibility of dividing each of the three counties into single-member districts for the 1975 and 1979 elections. *Connor* v. *Johnson,* 330 F.Supp. 506, 519 (S.D. Miss. 1971).

On appeal to this Court, plaintiffs challenged the district court's reapportionment plan for the 1971 elections and sought to invalidate those elections. This Court declined to disturb the 1971 elections and withheld a decision on the apportionment plan pending the district court's final judgment with respect to the apportionment of the entire State. *Connor* v. *Williams,* 404 U.S. 549 (1972). It was noted by this Court that in the meanwhile the State Legislature might adopt a reapportionment plan which would make it unnecessary for the district court to develop a plan. *Id.* at 552, fn. 4.

Following this Court's decision in *Connor* v. *Williams, id.,* the Mississippi Legislature established a Joint Legislative Reapportionment Study Committee authorized to formulate guidelines and consider and make proposals for reapportionment. In December, 1972, plaintiffs moved the district court to accept the resignation of William D. Neal as Special Master and to appoint another Special Master to proceed with the construction of single-member districts for Hinds, Harrison and Jackson Counties. Plaintiffs therein submitted that "[w]ithout the urgency of forthcoming legislative elections, the next elections being scheduled for 1975, this court has no possible obstacles barring establishment of single-member districts for Hinds, Harrison and Jackson Counties." (App. H, 83a).

In view of this Court's repeated emphasis that "'legislative reapportionment is primarily a matter for legislative consideration and determination . . .'" *id.* at 552, fn. 4, the district court by Order of Deferment "referred to the Legislature of the State of Mississippi now in session" the matters relating to Hinds, Harrison and Jackson Counties (App. I, 85a). The district court directed that:

> Under all of the circumstances, the Court is of the opinion that such legislative questions should be presented to and decided by the Mississippi Legislature with finality on or before February 10, 1973, failing in which this Court will promptly thereafter schedule and conduct a hearing requested by

the pending motion in this case, and dispose of the matter insofar as this Court is concerned promptly thereafter. (App. I, 85a).

On February 9, 1973, the Governor approved House reapportionment plan, H.B. 446, and Senate reapportionment plan, S.B. 1701. These plans established within Hinds, Harrison and Jackson Counties single-member districts as well as small floterial districts. The plans retained for the remaining counties in the State the legislative districts established by the district court in its 1971 plan. Shortly thereafter, this Court in *Mahan* v. *Howell,* 410 U.S. 315 (1973), approved the maintenance of the integrity of political boundaries in legislative reapportionment. The Mississippi Legislature, subsequently superseded its three-county plan by enacting H.B. 1389 and S.B. 2452, Miss. Legis., 1973 Reg. Sess. These enactments, approved by the Governor on April 6, 1973, and submitted to the district court, readopted for Hinds, Harrison and Jackson Counties the plan initially formulated by the district court in 1971. On March 13, 1973, the district court directed plaintiffs to file any objections to the three-county plan by April 20, 1973. Plaintiffs on April 19, 1973, filed their objections to the reapportionment plan.

This Court on January 27, 1975, decided *Chapman* v. *Meier,* 420 U.S. 1, reiterating that "reapportionment is primarily the duty and responsibility of the State through its legislature or other body, rather than of a federal court." *Id.* at 27.

On February 7, 1975, the three-judge district court held a hearing to consider the constitutionality of the 1973 legislation. After the hearing, it came to the

court's attention that the State Legislature had initiated another effort to reapportion the legislative districts. "Heeding the teachings of *Meier,* [the court] delayed a decision on the 1973 Acts to see if they were to be replaced by a 1975 enactment." *Connor* v. *Waller,* 396 F.Supp. 1308, 1311 (S.D. Miss. 1975). The Legislature did enact reapportionment bills, H.B. 1290, S.B. 2976, Miss. Legis., 1975 Reg. Sess., which were approved by the Governor on April 7 and 8, 1975.

Accordingly, on April 10, 1975, the district court dismissed all prior proceedings without prejudice and directed the plaintiffs to file amended complaints addressed to the 1975 reapportionment Acts. An amended complaint was filed and a hearing was held on May 7, 1975. On May 19, 1975, the district court approved the proposed plan. *Connor* v. *Waller, supra.*

The district court was reversed by this Court on June 5, 1975, since the 1975 Acts had not been submitted to the United States District Court for the District of Columbia for declaratory judgment or to the Attorney General of the United States, pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. § 1973c. *Connor* v. *Waller,* 421 U.S. 656 (1975). This Court held that the reapportionment Acts would not be effective as laws unless and until they were cleared pursuant to Section 5.

The reversal was without prejudice to the district court's authority to require, if appropriate, the holding of the 1975 legislative elections pursuant to a court-ordered plan that complied with this Court's decisions in *Chapman* v. *Meier,* 420 U.S. 1 (1975); *Mahan* v. *Howell,* 410 U.S. 315 (1973); and *Connor* v. *Williams,* 404 U.S. 549 (1972).

Thereafter, Mississippi submitted the 1975 legislation to the Attorney General in compliance with Section 5. The Attorney General objected to the plan and accordingly the district court held a hearing to formulate a court plan for the 1975 elections.

2. By orders dated June 25, July 8 and July 11, 1975, the district court formulated the temporary plan which created twelve single-member House districts and five single-member Senate districts for Hinds County; five single-member House districts and two at-large for Harrison and five single-member House districts for Jackson Counties. The three Senate seats for Harrison County and two Senate seats for Jackson remained at-large seats. The 1975 legislative elections were held pursuant to this temporary court-ordered plan.

The district court stated in its order that the formulated plans were for the 1975 elections only, and that a permanent plan would be formulated for reapportionment in the 1979 elections. The district court held that special elections may be ordered after the formulation of a permanent plan.

Plaintiffs and intervenor sought the fixing of a specific date by which a permanent plan would be formulated and the fixing of a definite schedule for special elections. On August 1, 1975, the district court entered an order declining to set specific dates, but reiterated its determination to have a permanent plan formulated by February 1, 1976, and require that any special elections be held in conjunction with the 1976 Presidential elections. However, on January 29, 1976, the district court deferred further hearings and decision of a permanent plan pending the resolution of three cases before this Court.

Plaintiffs moved for leave to file a petition for a writ of mandamus. This Court granted the motion and continued consideration of the petition until June 17, 1976, to enable the district court to hold an immediate hearing, formulate a permanent reapportionment plan for the 1979 elections, and to order any special elections if necessary. *Connor* v. *Coleman*, — U.S. —, 96 S.Ct. 1814 (1976).

3. The required hearing was held on June 15, 1976. On August 24, 1976, the district court issued an opinion (App. A, 1a) embodying the reapportionment plan for the Senate to be effective in the regular quadrennial election of 1979 which contained 52 single-member districts. On September 8, 1976, the district court issued its opinion (App. B, 27a) embodying the plan for the House which contained 122 single-member districts. In fashioning its statewide single-member plan, the district court fractured a majority of Mississippi's 82 counties.

Plaintiffs requested special elections in 13 Senate districts and in 41 House districts. The United States requested special elections in 8 Senate districts and in 27 House districts. Additionally, the plaintiffs objected to the entire Senate plan and requested alterations in 13 House districts. The United States objected to 11 Senate districts and 34 House districts as unnecessarily diluting black voting strength.

On November 12, 1976, the district court issued an opinion and order (App. C, 47a) modifying its previously ordered plan in 11 districts where discrepancies involving contiguity and population was apparent. The Court found that the 1975 temporary plan "comported with all pertinent Constitutional standards" (App. 50a); that the plaintiffs failed "to show legislative

unresponsiveness to the needs of black citizens" (App. 51a); and "that at the present day interference with the right of black citizens to cast their ballots is a myth" (App. 52a). Notwithstanding these findings the district court ordered special elections in two newly established districts which now have black population majority whereas heretofore had had white population majority (i.e., House Districts 79 and 97; App. 53a, 55a). The district court stayed setting dates for the two special elections until time for an appeal had expired or until this Court had decided an appeal on the merits. The district court entered final judgment on November 18, 1976 (App. D, 56a).

Plaintiffs appealed directly to this Court seeking (a) to vacate the district court's stay of the two special elections; (b) an order directing twenty-two additional special elections in the Mississippi House of Representatives; (c) to enjoin the convening of the Mississippi legislature until the special elections are certified; or in the alternative (d) expediting a limited appeal on the merits. This Court issued an order on December 8, 1976, A-421, treating plaintiffs' application as an expedited appeal from the judgment denying injunctive relief (App. G, 82a). Probable jurisdiction was noted and it was "further ordered that any and all other appeals from the above judgment be taken by filing notices of appeal and perfected pursuant to the Rules of the Court by filing statements as to jurisdiction on or before the close of business Wednesday, January 5, 1977." This jurisdictional statement is filed pursuant to this Court's order.

THE QUESTIONS ARE SUBSTANTIAL

The appeal presents an important question as to whether the district court has abused its discretion by

devising a reapportionment plan that totally disrupts political boundaries, and therefore totally disrupts the integrity of the political system as it has existed in Mississippi for over 150 years. Alternatives to the court plan that do not have the disruptive effect are available. Even though the alternatives may include the use of multi-member districts, this Court has approved the use of such districts under circumstances such as those presented here. Moreover, the ordering of two special elections further disrupts to the general public's detriment the legislative process.

1. By fractionalizing county and supervisors district boundaries so as to obtain single-member districts throughout the State, the district court disregarded the longstanding policy of the State. The State of Mississippi is composed of 82 counties, with 5 supervisors districts within each county. Since the admission of Mississippi as a state in 1817, it has consistently been a State policy that no legislative district be formed by combining fractions of counties (fracturing county boundaries).[2] In spite of this longstanding policy, the district court in its reapportionment plan fractured a majority of the county boundaries. It also fractured the boundaries of supervisors districts within the various counties, and resorted to the use of voting precinct lines within the supervisors districts for the fixing of boundaries of legislative districts.

By ignoring county and supervisors district lines in establishing the boundaries of legislative districts, the district court abused its discretion in reapportioning. Constitutionally proper reapportionment could have

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[2] District Court op., App. A, 3a-4a. *See also Connor* v. *Waller*, 396 F. Supp. 1308, 1314 (S.D. Miss. 1975).

been obtained by the use of small multi-member legislative districts and at the same time maintained the longstanding policy of the State not to fracture county boundary lines in forming legislative districts. Defendants contend that the action of the district court in ignoring this important State interest in formulating its reapportionment plan is in conflict with prior holdings of this Court.

This Court has recognized the "policy of maintaining the integrity of political subdivision lines in the process of reapportioning a state legislature . . . ." *Mahan* v. *Howell,* 410 U.S. 315, 329 (1973). This policy which heretofore had always been adhered to in the legislative districting plans, is totally disrupted under the district court's most recent reapportionment plan. This disruption could have been avoided by the use in several instances of small multi-member districts.

Multi-member districts have been common throughout the State's legislative districting history, and its present use would avoid the need to fractionalize county boundaries. This Court has held that multi-member districts are not *per se* unconstitutional, *Whitcomb* v. *Chavis,* 403 U.S. 124, 142 (1971), and has approved the use of multi-member districts to keep county splitting at a minimum. *Harrison* v. *Schaefer,* 383 U.S. 269 (1966), discussed in *Whitcomb, supra* at 142, fn. 22.

The district court, by its creation of a statewide single-member district plan, has produced a redistricting scheme which has fractured a majority of Mississippi's counties. While guaranteeing the larger, whole county of representation it nevertheless effectively destroys the effect of the voting strength of the numerous

"balkanized" areas which were tacked on simply to achieve the desired district population. The use of small multi-member districts which do not result in a massive splitting of counties would have satisfied the one person-one vote rule of *Reynolds* v. *Sims,* 377 U.S. 533 (1964) and at the same time would have kept county splitting to a minimum. Consequently it would have prevented the creation of numerous "balkanized" (unrepresented) areas throughout the entire State of Mississippi. The district court failed to recognize that this justification would have warranted a deviation from the general preference favoring single-member districts.

2. Although the district court properly concluded that the 1975 temporary plan "comported with all pertinent Constitutional standards" (App. C, 50a), the district court nevertheless erroneously ordered special elections in two newly created House districts.

In establishing standards upon which to order special elections under the 1979 reapportionment plan, the district court stated that:

> The only available thesis for ordering special elections in any of the newly formulated legislative districts would be where required to remedy any impermissible dilution of black voting strength in the temporary plan when compared with the permanent plan established for the 1979 elections. App. C, 50a.

The district court further held that the burden of proving dilution of black voting strength rests upon those who assert it, and that the significance of past discrimination in dilution cases lies in how it bears on political participation today. *Id.*

The district court thereupon concluded that plaintiffs had failed to demonstrate any present impact from past discrimination, *id.* at 51a; plaintiffs had failed to show legislative unresponsiveness to the needs of black citizens, *id.;* and reports from federal election observers regarding the 1975 and 1976 elections indicated that,

> at the present day interference with the right of black citizens to cast their ballots is a myth . . . '[T]he Voting Rights Act of 1965 has effectively reduced all such racially discriminatory factors to what honestly may be termed an irreducible minimum.' *Id.* at 52a.

Notwithstanding these findings, the district court proceeded to require the holding of special elections in House Districts 79 and 97. House District 79 was created out of a 1975 district with 65.5% white population majority, and it now has a black population majority of 56.1%. House District 97 was created out of a 1975 district with a 54.2% white majority, and it now has a black majority of 60.6%. Other than reciting these statistics, no other reason was given for ordering special elections. By requiring the holding of special elections because of an increase in the percentage of blacks in the two districts, the district court has misconstrued the issue of dilution to be a question of constitutional law, rather than a question of the statutory construction of Section 5 of the Voting Rights Act. *See Beer* v. *United States,* — U.S. —, 96 S.Ct. 1357 (1976). As the two districts in question did not under the 1975 reapportionment plan unconstitutionally dilute the effect of black voting strength, special elections should not now be held.

The holding of special elections in the middle of the quadrennial term of the State legislature will unnecessarily disrupt the political processes of the State. Moreover, the permanent plan was not the result of any finding by the district court of the existence of any impermissible dilution of black voting strength. Therefore, the district court clearly erred when it ordered special elections in two districts for the sole reason that the population changed from a white majority to a black majority.

CONCLUSION

For the foregoing reasons, probable jurisdiction should be noted.

Respectfully submitted,

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January 5, 1977

APPENDIX

APPENDIX A

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

CIVIL ACTION NO. 3830(A)

PEGGY J. CONNOR, ET AL., *Plaintiffs*,
v.
CLIFF FINCH, ET AL., *Defendants*,
and
UNITED STATES OF AMERICA, *Plaintiff-Intervenor*

Before COLEMAN, *Circuit Judge*, RUSSELL *and* COX, *District Judges.*

COLEMAN, *Circuit Judge.*

(Filed August 24, 1976)

For the 1979 quadrennial Mississippi legislative elections, our task is to reapportion both Houses of the Mississippi Legislature.[1]

I. *The Directions of the Supreme Court, May 19, 1976*

In an opinion dated May 19, 1976,[2] the Supreme Court held that this task should be performed agreeably to the teachings of *Mahan* v. *Howell*,[3] *Connor* v. *Williams*,[4] and *Chapman* v. *Meier*.[5]

While a writ of mandamus did not issue, the opinion further held that we should enter

> "a final judgment embodying a permanent plan reapportioning the Mississippi Legislature in accordance with law to be applicable to the election of legislators in the 1979 quadrennial elections, and also ordering any necessary special elections to be held to coincide with

the November 1976 Presidential and Congressional elections, or in any event at the earliest practicable date thereafter."

A hearing was scheduled for Wednesday, June 2. The Department of Justice was unable to appear on that date, so the hearing was rescheduled for, and held on, Tuesday, June 15, 1976.

In an effort to expedite the matter as much as possible, William D. Neal, who participated as a special master in the Court ordered reapportionments of 1967 and 1971, was appointed special master, with directions to compile the statistical data necessary to a plan for the fifty-two member State Senate.

Hoyt Holland, heretofore appointed a special master in this litigation, was directed to concentrate his efforts on similar data for the 122 member House of Representatives.

II. *The Practical Aspects of the Task*

The Mississippi Legislature is composed of 122 Representatives and 52 Senators (Sections 254, 255, Mississippi Contitution). In 1970 Mississippi had a population of 2,216,-912. The population norm for a Senate Seat is 42,633; for a House Seat it is 18,171.

The State Constitution, Section 254, directs that "in each apportionment each county shall have not less than one Representative".

Thirty eight of Mississippi's eighty two counties have less than 18,171 people. To give every county one Representative would have the result that

> "population is submerged as the controlling consideration in the apportionment of seats in this particular legislative body [and] the right of all the State's citizens to cast an effective and adequately weighted vote would be unconstitutionally impaired if we were to

> award one Representative to every county", Reynolds v. Sims, 377 U.S. 533, 84 S.Ct. 1362, 1392, 12 L.Ed.2d 506 (1964).

Within the 122 member limit there is no way by which every county may be assigned one Representative. We are thus forced to abandon this standard.

The Integrity of County Boundaries

Since the admission of Mississippi as the twentieth state in the American Union (1817), the county has been the sole unit of state government. This has been considered to be of such critical importance that Section 260 of the Mississippi Constitution provides that no existing county boundary may be altered without the consent of a majority of the voters in the affected part of each of the counties involved.

Mississippi has a system of local and private legislation almost identical to that of Virginia, Miss. Const., 1890, Sec. 89; Mahan v. Howell, 410 U.S. 315 (1973).

Counties having more than one Representative may provide for the election of such Representative by dividing such county into districts for the election of Representatives, Miss. Const., Sec. 254.

Each county is divided into five supervisors districts, Miss. Const., Sec. 170. These districts are known as "Beats", from the early days when the county governing board was called "The Police Jury", Miss. Code of 1857, p. 414.

The Board exercises executive and judicial functions, including the valuation of property for taxation, the levy of taxes, the expenditure of public funds, the issuance of bonds, and the management of the public roads. The Constitution requires that these officials be elected from the respective Beats, which means that a voting precinct must be located entirely within the same Beat. The voting precincts

are of various voting strengths, being erected for the general public convenience, consistently with community patterns.

For about 75 years Mississippi has maintained a system of permanent voter registration. Except in the rare event of a total re-registration, once a person registers to vote within the precinct of his residence he need never register again as long as he continues to reside there. Poll lists for use on election day are maintained accordingly.

From the foregoing it inexorably follows that any single member legislative district has to be constructed primarily from counties, using beats and precincts as necessary to approach or attain the required population norm.

Fracturing County Boundaries

From the beginning of statehood the Mississippi State Senate has been elected from districts, generally composed of more than one county.

For 159 years, however, no legislative district has been formed by combining fractions of counties (fracturing county boundaries). For detailed history of this situation in Mississippi, see Connor v. Waller, 396 F. Supp. 1314, 1315.

In deference to this undisputed, well defined state policy, to which the voter is thoroughly accustomed, this Court previously has adhered to the principle that in the reapportionment of legislative seats it would not combine subdivisions of different counties; we would not fracture county boundaries. Indeed, such fractionalization, carried very far, would seriously disrupt (and impair) the *basic fabric* of Mississippi state government.

There is a practical consideration about fractionalizing counties which, so far, the Supreme Court does not seem to have addressed. If a Beat or a precinct in one county is detached for annexation to another county for the election of

a Senator or a Representative, the voter residing in the detached area can certainly vote but the vote from a detached area having a small percentage of the total vote, will have very little weight against the "majority bastion" in the other county, certainly so if the interests of the Balkanized area do not coincide with those of the mass to which it has been attached. Independently of the mathematics demonstrated by mere numbers, dilution of voting strength would, in fact, occur.

The public policy of this State, expressly and repeatedly recognized by state constitutions and statutes, has been to allow multiple member legislative districts, avoiding the fractionalization of counties.

By the use of *multiple member districts*, without fracturing county boundaries, the Mississippi Legislature could be apportioned in a manner which would comply with one man-one vote principles. We are well aware that the Supreme Court has never yet directed any court to fractionalize counties or to fracture county lines. In *Mahan* the right to preserve the integrity of county boundaries was recognized. Yet, we have repeatedly been told that in the formulation of a court ordered legislative reapportionment plan single member districts must be used unless multiple member districts can be justified by unusual circumstances, Chapman v. Meier, *supra*.

There comes a time when stability, the prime requisite of effective government, should be attained. We have decided to divide the State into single member legislative districts in the hope that this long-running controversy may at last be terminated and the stability of the Mississippi Legislature restored.

We do not believe, however, that the Supreme Court intends that we should tear state policies to shreds. Both *Mahan* and *Chapman* abound with declarations to the contrary. What we propose to do is to set up single member districts, at the same time preserving as much as possible of the spirit of the rule against breaking counties apart.

The policy of having multiple member districts will, of course, have to be ignored.

III. *The Means of Accomplishing the Task*

Mississippi is divided into 82 counties, 410 Beats, and about 1750 voting precincts. It is not a populous State. A deviation of 1% in the population norm for the election of a Representative involves only 181 persons. In the Senate 1% amounts to only 426 persons. If we were to ignore the special circumstances of the case and if percentages were allowed to serve as the sole criteria, we are not left much breathing room in undertaking the conversion of a 159 year old system into single member districts. We cannot change the county lines ordained by law. We have not the machinery with which to realign Beat boundaries. We cannot undertake the reconstitution of voting precincts. A statewide re-registration of voters on newly begun permanent registration rolls would be a task to stagger the most resolute. In short, we have had to take the Counties, Beats, and precincts as they actually are—not what we should prefer if we had been handling these matters for the past century and a half. The special circumstances are further complicated by the fact that the Beats in many Counties have been reapportioned since the Census of 1970, so the figures for that year no longer accurately reflect the facts. In such instances, we have recomputed population figures, as of 1970, by the most accurate means available.

We have sought to avoid a reapportionment which would spawn a labyrinthian mishmash of legislative districts, composed of hundreds of Balkanized areas scattered profusely throughout the State. We have sought to avoid reducing the legislative elective process to a hopeless jungle, impairing the meaningful nature of the representational function. This has necessitated greater variances in population percentages in some instances than ordinarily would have been preferred.

Of course, we realize the whole job will be to do over again in light of the 1980 figures and the Court hopes that the reapportionment we are now ordering will provide the foundation for smaller variations when the new figures are known.

THE PLANS

The plaintiffs have proposed two reapportionment plans. One is known as the Valinsky Plan. It has been of no practical use because it is constructed chiefly on population data found in Census Enumeration Districts. These Census Districts do not conform to voting precinct or beat boundaries. Their use would require a massive realignment of voting precincts throughout the State, with consequent re-registration of voters. The Court thinks it should adopt an alternative which would avoid this wholesale confusion, to say nothing of the problem of getting the voters to register anew in the appropriate precinct.

On the other hand, we have adopted portions of the Kirksey Plan because, in the opinion of the Court, they fit the situation better than any others. We have not adopted the Kirksey Plan *in toto* because its efforts to attain mathematical nicety would irreparably rend the basic fabric of state government in Mississippi.

The plans we now formulate will conform as nearly as possible to the basic concepts of one man-one vote without, at the same time, setting up a veritable Babel of ill defined legislative districts.

THE GUIDELINES

To attain this objective we have developed, and adhere to, the following guidelines:

1. If a county has more than enough population for the election of a Representative or Senator, then there shall be one complete district within that county, thus at least one Senator or Representative will be chosen solely by that

county. In practical effect this will largely preserve the integrity of county boundaries and conform, to a degree, with the state policy on that subject, Mahan v. Howell, *supra.*

2. Except where two or more districts may properly be set up *within* the same county as authorized by Mississippi Constitution, Section 254, no county will be split into more than two segments.

3. Any departure from these guidelines will be allowed to occur in those rare instances required to attain reasonable contiguity, a tolerable equality of population, or an acceptable degree of compactness.

4. There shall be no minimization or cancellation of black voting strength. Any apparent dilution in any particular locality will occur only when dictated by the necessity for drawing district lines so as to adhere as closely as reasonably possible to the population norm while maintaining contiguity and a reasonable degree of compactness.

5. The population variances are to be as near *de minimis* as possible, bearing in mind any existing unusual circumstances and the narrow mathematical restrictions imposed by a single percentage point.

6. Obviously, shifts could be made in some districts to make them more nearly *de minimis* but the bulge here, or the contraction there, cannot overlook the necessity for fitting one set of 52 blocks (Senate seats) and another set of 122 blocks (House seats) within immovable precinct, beat, county, and state boundaries. Nowhere can a "domino" effect be more quickly encountered.

7. The population figures of the 1970 Census will be used as the basis for this reapportionment. This is the only definite data available. Yet, the Court is well aware of the continuing population shifts in Mississippi. The Census Bureau

officially estimates that between 1970 and July 1, 1973 (the latter date being now more than three years past), the population of DeSoto County increased 28.9%, both Jackson and Rankin Counties increased 18.1%, and so forth. (See Table for the entire State attached to this opinion). We cannot use the 1973 official population estimates because they do not include beats and precincts.

IV. *Judgment*

It, therefore, is ORDERED, ADJUDGED, and DECREED:

1. The permanent plans for the reapportionment of the Legislature of the State of Mississippi, as hereinafter set forth, *shall be in force and effect for the regular quadrennial elections of 1979* and thereafter until altered according to law.

2. Except in those instances in which a special election may hereinafter be ordered, these plans shall not affect the terms of office of legislators elected in 1975.

3. In the event of the death or resignation of a legislator presently in office, the vacancy so created shall be filled by a special election in that district promulgated for 1979 in which the legislator shall have resided at the time of such death or resignation.

4. The removal by a legislator of his residence from one place to another within the district for which he was elected in 1975 shall not affect the term of office for which he was elected.

It is further ORDERED, ADJUDGED, and DECREED that the 52 members of the Mississippi State Senate to be chosen in the quadrennial election year of 1979 shall be elected from districts consisting of specified counties, beats, and precincts, as follows:

SENATE DISTRICTS

District Number	Description	Population	Over or under the population norm
1	DeSoto County; Marshall County: Beat 3	40,697	—4.5
2	Lafayette County; Marshall County: Beats 1, 2, 4, and 5	43,396	+1.8
3	The Counties of Benton, Pontotoc, and Union	43,964	+3.1
4	The Counties of Alcorn and Tippah	43,031	+0.9
5	The Counties of Prentiss and Tishomingo; Itawamba County: Beats 1 and 2	41,811	—1.9
6	Lee County	46,148	+8.2
7	Monroe County; Itawamba County: Beats 3, 4, and 5	44,152	+3.6
8	Lowndes County: less Air Base Precinct	44,312	+4.0
9	The Counties of Chickasaw and Clay; Lowndes County: Air Base Precinct	41,033	—3.7
10	The Counties of Choctaw, Montgomery, and Webster; Calhoun County: Beats 1, 2, 4, and 5	43,215	+1.4
11	The Counties of Panola and Yalobusha; Calhoun County: Beat 3	41,557	—2.5
12	The Counties of Tate and Tunica; Quitman County: Beats 1, 2, 3, and 5	43,171	+1.3

13	Coahoma County; Quitman County: Beat 4	43,562	+2.2
14	Bolivar County: except the Precincts of Shelby and Duncan-Alligator	43,496	+2.0
15	Sunflower County; Bolivar County: the Precincts of Shelby and Duncan-Alligator	42,960	+0.8
16	Washington County: Beats 1, 3, and 4	42,553	—0.2
17	Humphreys County; Washington County: Beats 2 and 5	42,629	.0
18	Leflore County	42,111	—1.2
19	The Counties of Grenada and Tallahatchie	39,192	—8.1
20	The Counties of Carroll and Leake; Attala County: Beats 1, 2, 3, and 4	42,138	—1.2
21	The Counties of Neshoba and Winston; Attala County: Beat 5	43,122	+1.1
22	The Counties of Noxubee and Oktibbeha	43,040	+1.0
23	Kemper County; Lauderdale County: Beats 1 and 3	39,422	—7.5
24	Clarke County: Beat 4 Lauderdale County: Beats 2, 4, and 5	40,858	—4.2
25	The Counties of Jasper and Smith; Clarke County: Beats 1, 2, 3, and 5	41,644	—2.3

26	The Counties of Newton and Scott	40,352	—5.4
27	Rankin County	43,933	+3.0
28	Madison County; Holmes County: Beats 2 and 3 Yazoo County: Beats 2 and 4	45,612	+7.0
29	The Counties of Issaquena and Sharkey; Holmes County: Beats 1, 4, and 5 Yazoo County: Beats 1, 3, and 5	46,223	+8.4
30	Warren County	44,981	+5.5
31	Hinds County Beat 1	42,948	+0.7
32	Hinds County: Beat 2	43,061	+1.0
33	Hinds County: Beat 3	43,199	+1.3
34	Hinds County: Beat 4	43,010	+0.9
35	Hinds County: Beat 5	42,755	+0.3
36	Simpson County; Copiah County: Beats 1, 2, 4, and 5	39,747	—6.8
37	The Counties of Claiborne and Lincoln; Copiah County: Beat 3	41,233	—3.3
38	Jefferson County; Adams County: Beats 1, 2, 4, and 5	39,082	—8.3
39	The Counties of Amite, Franklin, and Wilkinson; Adams County: Beat 3	40,379	—5.3
40	Pike County; Walthall County: Beats 1, 2, and 3	40,190	—5.5

41	The Counties of Lawrence and Marion; Jefferson Davis County: Beat 2 Walthall County: Beats 4 and 5	34,486	—7.4
42	Covington County; Jefferson Davis County: Beats 1, 3, 4, and 5 Jones County: Beat 5, and the Precincts of County Barn and Ellisville Courthouse	40,794	—4.3
43	Jones County: Beats 1, 2, 3, and 4, less the Precincts of County Barn and Ellisville Courthouse	40,989	—3.9
44	Forrest County: Beats 1, 2, and 3; the Precincts of Camp School, Dixie Pine, Hawkins Junior High, Rowan High, William Carey, and McCallum	42,339	—0.7
45	The Counties of Lamar and Perry; Forrest County: Beat 5 and the Precincts of County A.H.S. and McLaurin Stone County: Beats 1 and 2	43,024	+0.9
46	The Counties of George, Greene, and Wayne; Stone County: Beats 3, 4, and 5	42,515	—0.3
47	The Counties of Hancock and Pearl River	45,189	+6.0

48	Harrison County: the City of Gulfport and Precinct 11 in the City of Biloxi	45,208	+6.0
49	Harrison County: all of the City of Biloxi except Precinct 11	44,069	+3.4
50	Harrison County: all that part outside the Cities of Biloxi and Gulfport	45,305	+6.3
51	Jackson County: all that part outside the Cities of Moss Point and Pascagoula plus the Precinct of Bayou Casotte No. 4	44,269	+3.8
52	Jackson County: the City of Moss Point; all of the City of Pascagoula except the Precinct of Bayou Casotte No. 4	43,706	+2.5

That which appears herein shall constitute the findings of fact and conclusions of law in this case as required by Rule 52(a) of the Federal Rules of Civil Procedure and shall also constitute the judgment of the Court as to the reapportionment of the Mississippi State Senate. This, however, is not a final judgment in this case because the House of Representatives must also be reapportioned so as to comply with the Constitution of the United States. The reapportionment of the House of Representatives will be accomplished in a supplemental decree, to be entered as quickly as the Court can devise a satisfactory plan for the reapportionment of the House of Representatives, continuing jurisdiction of this case being expressly reserved for that purpose.

The parties to this litigation are directed, within fifteen (15) days, to file stipulations with the Court as to those Senatorial Districts in which special elections would be mandated, in their opinion, by the Constitution of the United States.

So Ordered, Adjudged, and Decreed, this the 24th day of August, 1976.

/s/ Jas. P. Coleman
United States *Circuit Judge*

/s/ Dan M. Russell, Jr.
Chief Judge, United States District Court

/s/ Harold Cox
United States District Judge

Footnote 1

The prevously reported decisions in this litigation are:

Connor v. Johnson, 256 F. Supp. 692 (1966); 265 F. Supp. 492 (1967) (not appealed); 330 F. Supp. 506 (1971);

Connor v. Williams, 402 U.S. 690, 91 S.Ct. 1760, 29 L.Ed. 2d 268 (1971); 330 F. Supp. 521 (1971); 404 U.S. 549, 92 S.Ct. 656, 30 L.Ed.2d 704 (1972);

Connor v. Waller, 396 F. Supp. 1308; 421 U.S. 656, 95 S.Ct. 2003, 44 L.Ed.2d 486 (1975). District Court citations are for the Southern District of Mississippi.

Connor v. Coleman, —— U.S. ——, 96 S.Ct. 1814, —— L.Ed2d ——.

The District Court orders of June 25, 1975, July 8, 1975, and July 11, 1975, promulgating a temporary plan for the 1975 legislative elections, are not reported.

FOOTNOTE 2

Connor v. Coleman, *supra.*

FOOTNOTE 3

410 U.S. 315, 93 S.Ct. 979, 35 L.Ed.2d 320 (1973).

FOOTNOTE 4

404 U.S. 549, 92 S.Ct. 656, 30 L.Ed.2d 704 (1972).

FOOTNOTE 5

420 U.S. 1, 95 S.Ct. 751, 42 L.Ed.2d 766 (1975).

APPENDICES

POPULATION ANALYSIS FOR THE 52 SENATORIAL DISTRICTS
1976 COURT ORDERED PLAN

Dist. No.	Counties and Beats	Population County	Population District	Over or Under State Norm of 42,633 Amount	Over or Under State Norm of 42,633 %
1	DeSoto—All	35,885			
	Marshall—Beat 3	4,812	40,697	1,936—	4.5—
2	Lafayette—All	24,181			
	Marshall—Beats 1, 2, 4 & 5	19,215	43,396	763+	1.8+
3	Union—All	19,096			
	Pontotoc—All	17,363			
	Benton—All	7,505	43,964	1,331+	3.1+
4	Alcorn—All	27,179			
	Tippah—All	15,852	43,031	398+	.9+
5	Prentiss—All	20,133			
	Tishomingo—All	14,940			
	Itawamba—Beats 1 & 2	6,738	41,811	822—	1.9—
6	Lee—All	46,148	46,148	3,515+	8.2+
7	Monroe—All	34,043			
	Itawamba—Beats 3, 4 & 5	10,109	44,152	1,519+	3.6+
8	Lowndes County, all except Air Base Precinct	44,312	44,312	1,679+	4.0+
9	Clay—All	18,840			
	Chickasaw—All	16,805			
	Lowndes—Air Base Precinct	5,388	41,033	1,600—	3.7—
10	Choctaw—All	8,440			
	Montgomery—All	12,918			
	Webster—All	10,047			
	Calhoun—Beats 1, 2, 4 & 5	11,810	43,215	582+	1.4+
11	Panola—All	26,829			
	Yalobusha—All	11,915			
	Calhoun—Beat 3	2,813	41,557	1,076—	2.5—

12	Tate—All	18,544			
	Tunica—All	11,854			
	Quitman—Beats 1, 2, 3 & 5	12,773	43,171	538+	1.3+
13	Coahoma—All	40,447			
	Quitman—Beat 4	3,115	43,562	929+	2.2+
14	Bolivar—Beats 1, 2, 4 & 5	39,767			
	Beat 3: Mound Bayou Precinct	3,729	43,496	863+	2.0+
15	Sunflower—All	37,047			
	Bolivar—Beat 3: Shelby & Duncan—Alligator Precincts	5,913	42,960	327+	.8+
16	Washington—All of Beats 1, 3 & 4	42,553	42,553	80—	.2—
17	Washington—All of Beats 2 & 5	28,028			
	Humhpreys—All	14,601	42,629	4—	.0—
18	Leflore—All	42,111	42,111	522—	1.2—
19	Grenada—All	19,854			
	Tallahatchie—All	19,338	39,192	3,441—	8.1—
20	Leake—All	17,085			
	Attala—Beats 1, 2, 3 & 4	15,656			
	Carroll—All	9,397	42,138	495—	1.2—
21	Neshoba—All	20,802			
	Winston—All	18,406			
	Attala—Beat 5	3,914	43,122	489+	1.1+
22	Oktibbeha—All	28,752			
	Noxubee—All	14,288	43,040	407+	1.0+
23	Lauderdale—Beats 1 & 3	29,189			
	Kemper—All	10,233	39,422	3,211—	7.5—
24	Lauderdale—Beats 2, 4 & 5	37,898			
	Clarke—Beat 4	2,960	40,858	1,775—	4.2—
25	Jasper—All	15,994			
	Smith—All	13,561			
	Clarke—Beats 1, 2, 3 & 5	12,089	41,644	989—	2.3—
26	Scott—All	21,369			
	Newton—All	18,983	40,352	2,281—	5.4—

27	Rankin—All	43,933	43,933	1,300+	3.0+
28	Madison—All	29,737			
	Holmes—Beats 2 & 3	10,110			
	Yazoo—Beats 2 & 4	5,765	45,612	2,979+	7.0+
29	Yazoo—Beats 1, 3 & 5	21,539			
	Holmes—Beats 1, 4 & 5	13,010			
	Sharkey—All	8,937			
	Issaquena—All	2,737	46,223	3,590+	8.4+
30	Warren—All	44,981	44,981	2,348+	5.5+
31	Hinds—Beat 1	42,948	42,948	313+	.7+
32	Hinds—Beat 2	43,061	43,061	428+	1.0+
33	Hinds—Beat 3	43,199	43,199	566+	1.3+
34	Hinds—Beat 4	43,010	43,010	377+	.9+
35	Hinds—Beat 5	42,755	42,755	122+	.3+
36	Simpson—All	19,947			
	Copiah—Beats 1, 2, 4 & 5	19,800	39,747	2,886—	6.8—
37	Lincoln—All	26,198			
	Claiborne—All	10,086			
	Copiah—Beat 3	4,949	41,233	1,400—	3.3—
38	Adams—Beats 1, 2, 4 & 5	29,787			
	Jefferson—All	9,295	39,082	3,551—	8.3—
39	Amite—All	13,763			
	Wilkinson—All	11,099			
	Franklin—All	8,011			
	Adams—Beat 3	7,506	40,379	2,254—	5.3—
40	Pike—All	31,756			
	Walthall—Beats 1, 2 & 3	8,534	40,290	2,343—	5.5—
41	Marion—All	22,871			
	Lawrence—All	11,137			
	Walthall—Beats 4 & 5	3,966			
	Jefferson Davis—Beat 2	1,512	39,486	3,147—	7.4—
42	Jones—Beat 5 (11,272) plus Ellisville Courthouse & County Barn Precincts in Beat 4 (4,096)	15,368			
	Covington—All	14,002			
	Jefferson Davis—Beats 1, 3, 4 & 5	11,424	40,794	1,839—	4.3—

43	Jones—Beats 1, 2, 3 & 4 less Ellisville Courthouse & County Barn Precincts	40,989	40,989	1,644—	3.9—
44	Forrest—All of Beats 1, 2 & 3 and Camp School, Dixie Pine, Hawkins Junior High, Rowan High, William Carey & McCallum Precincts in Beat 4	42,339	42,339	294—	.7—
45	Forrest—All of Beat 5 and Forrest County A.H.S. and McLaurin Precincts in Beat 4	15,510			
	Lamar—All	15,209			
	Perry—All	9,065			
	Stone—All of Beats 1 & 2	3,240	43,024	391+	.9+
46	Wayne—All	16,650			
	George—All	12,459			
	Greene—All	8,545			
	Stone—All of Beats 3, 4 & 5	4,861	42,515	118—	.3—
47	Pearl River—All	27,802			
	Hancock—All	17,387	45,189	2,556+	6.0+
48	Harrison—City of Gulfport, &	40,791			
	Precinct 11 in City of Biloxi	4,417	45,208	2,575+	6.0+
49	Harrison—City of Biloxi: All except that part included in District 48	44,069	44,069	1,436+	3.4+
50	Harrison—All that part lying outside Cities of Biloxi and Gulfport	45,305	45,305	2,672+	6.3+
51	Jackson—All that part lying outside Cities of Moss Point and Pascagoula plus Bayou Casotte No. 4 Precinct in City of Pascagoula	44,269	44,269	1,636+	3.8+
52	Jackson—The City of Moss Point and the City of Pascagoula, less Bayou Casotte No. 4 Precinct	43,706	43,706	1,073+	2.5+
	TOTALS	2,216,912	2,216,912		

The U. S. Census Bureau does not report population by voting precincts, as it once did. The Court, therefore, has estimated precinct population by factoring the registered voting strength of a precinct against the total population of the Beat in which it is located. Extensive comparison indicates that the precinct population figures thus obtained are substantially accurate.

The Beats in some Counties have been redistricted since 1970. The population figures used for those Beats have generally been taken from the Court orders specifying the population figures.

Three Counties—Hinds, Warren, and Grenada are in the process of having their Beats redistricted. Hinds and Warren are on appeal. As to them we have used the population figures as found by the District Court. Legislative redistricting as to Lowndes County presented a special problem. Beats in Lowndes were redistricted in 1972. There, the District Court found that 4,074 non-residents were enumerated at Columbus Air Force Base in 1970, while 1,670 non-residents were enumerated at Mississippi University for Women. It reapportioned the five Beats on the basis of a population of 43,956. We have reapportioned on the basis of the total population enumerated by the Census Bureau (49,700).

RACIAL COMPOSITION OF THE VARIOUS SENATORIAL DISTRICTS

District Number	Black Population	District Number	Black Population
1	38.1%	21	28.4%
2	43.1%	22	45.1%
3	20.9%	23	29.4%
4	13.4%	24	37.7%
5	7.4%	25	35.9%
6	20.7%	26	30.3%
7	25.5%	27	28.1%
8	26 %	28	62 %
9	41.5%	29	60.8%
10	31.7%	30	40.8%
11	46 %	31	39 %
12	57.2%	32	54.3%
13	64 %	33	51.2%
14	58.9%	34	28.2%
15	65.1%	35	22.8%
16	57 %	36	39.7%
17	57 %	37	43.9%
18	57.9%	38	54 %
19	51.9%	39	52.7%
20	42.2%	40	42.6%

District Number	Black Population
41	33.8%
42	28.3%
43	30.8%
44	No figures
45	No figures
46	24 %
47	16.7%
48	23.6%
49	18.5%
50	8.7%
51	12.3%
52	20.1%

MISSISSIPPI POPULATION CHANGES, BY COUNTY, SINCE THE CENSUS OF 1970
(U. S. Census Official Estimate)

COUNTY	
Adams	+0.9
Alcorn	+3.7
Amite	−4.8
Attala	+0.3
Benton	−1.3
Bolivar	+0.1
Calhoun	+3.0
Carroll	−0.4
Chickasaw	+2.4
Choctaw	+0.7
Claiborne	+0.3
Clarke	+2.4
Clay	+1.6
Coahoma	−4.2
Copiah	+4.5
Covington	+2.7
DeSoto	+28.9
Forrest	+6.9
Franklin	−0.3
George	+6.1
Greene	−0.4
Grenada	+1.0
Hancock	+5.5
Harrison	+8.3
Hinds	+3.8
Holmes	−2.7
Humphreys	−3.4
Issaquena	−12.2
Itawamba	+5.6
Jackson	+18.1
Jasper	+0.8

COUNTY	
Jefferson	−5.3
Jefferson Davis	−0.1
Jones	+0.7
Kemper	−0.6
Lafayette	+11.1
Lamar	+11.3
Lauderdale	+6.3
Lawrence	+2.6
Leake	+2.3
Lee	+5.9
Leflore	−1.5
Lincoln	+2.7
Lowndes	+7.6
Madison	+7.3
Marion	+2.8
Marshall	+11.4
Monroe	+2.3
Montgomery	+2.5
Neshoba	+4.2
Newton	+2.6
Noxubee	−4.1
Oktibbeha	+6.9
Panola	+2.4
Pearl River	−0.1
Perry	+3.4
Pike	+4.6
Pontotoc	+5.6
Prentiss	+2.8
Quitman	−4.4
Rankin	+18.1
Scott	+4.3
Sharkey	−3.7
Simpson	+4.3
Smith	+6.2
Stone	+5.4

County	
Sunflower	−0.7
Tallahatchie	−3.8
Tate	+9.6
Tippah	+8.9
Tishomingo	+6.3
Tunica	−5.4
Union	+6.7
Walthall	−0.8
Warren	+2.4
Washington	+0.8
Wayne	+1.9
Webster	+0.9
Wilkinson	−3.5
Winston	+3.1
Yalobusha	+4.0
Yazoo	−3.0

APPENDIX B

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

(Caption Omitted in Printing)

(Filed September 8, 1976)

Before Coleman, *Circuit Judge,* Russell and Cox, *District Judges.*

PER CURIAM:

Continuing our difficult journey toward a valid reapportionment of the Mississippi Legislature, we now apportion the State of Mississippi into 122 single member districts for the election of members of the State House of Representatives. Our partial decree of August 24, 1976 apportioning the State Senate, including its findings of fact and conclusions of law, is incorporated in and made a part of this decree.

In constructing a system of single member legislative districts, this Court is compelled to ignore the requirements of the Mississippi Constitution that each County shall have one Representative. We are compelled to abandon two 159 year old state policies: (1) multi-member legislative districts and (2) never fracturing county boundaries in the composition of legislative districts. In short, by the erection of single member legislative districts we have revolutionized Mississippi's system of legislative elections. On the other hand, we have striven to preserve county identity as far as reasonably possible, which *Mahan* v. *Howell* holds to be a legitimate objective. The *spirit*, if not the letter, of the policy behind the preservation of county boundaries and the integrity of counties as the basic unit of state government has been largely preserved. The basic fabric of Mississippi

government has not been materially harmed. This has caused, or rendered unavoidable, the population variations appearing between and among the respective legislative districts. Once the voting public becomes familiar with the new system (which will take time) the best interests of the State will be promoted by single member districts. Using the foundation here established for the first time, when the results of the 1980 census are known, legislative districts may be revised with less population variances and with a negligible impact on the legislative electoral process.

Mississippi has not been allowed to elect a legislature under rules of its own making since 1963. Three quadrennial legislative elections have been held under reapportionments constructed by this Court; yet, for various reasons, none of the Court-ordered plans has ever reached a decision on the merits in the Supreme Court. The most recent effort of the Legislature to reapportion itself foundered upon objections from the Attorney General of the United States. As the Supreme Court indicated in its opinion of May 19, 1976, the time has come to put an end to this litigation. Prior experience teaches that nothing short of the course we have adopted has any real hope of ending it.

In Reynolds v. Sims, 377 U.S. at 577, the Supreme Court said that "the Equal Protection Clause requires that a state make an honest and a good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable."

Consistently with the considerations advanced in our opinion of August 24, 1976, this Court has done all it can do in the way of an honest, good faith effort.

In *Reynolds* v. *Sims, supra,* the Supreme Court also said:

"A State may legitimately desire to maintain the integrity of various political subdivisions, insofar as possible, and provide for compact districts of contiguous territory in

designing a legislative apportionment scheme. Valid considerations may underlie such aims. Indiscriminate districting, without any regard for political subdivision or natural or historical boundary lines, may be little more than an open invitation to partisan gerrymandering." *Mahan* v. *Howell* confirmed this principle.

In the formulation of our Court-ordered plan, literally hundreds of boundary possibilities have been considered in an effort to achieve population norms but there has been no gerrymandering.

DECREE

It is Ordered, Adjudged and Decreed that for the regular quadrennial elections of 1979, and thereafter until changed according to law, the 122 members of the Mississippi House of Representatives shall be elected from 122 districts, as follows, to-wit:

District Number	Description	Population and percentage over or under the population norm
1	DeSoto County: Beat 3, Beat 4, and the Precinct of Hernando East	17,802 —2.0
2	DeSoto County: Beat 1, Beat 2, and the Precincts of Alphaba, Lewisburg West, Love, Nesbit East, and Pleasant Hill	18,083 —0.5
3	Marshall County: Beats 1, 2, 3, and 4	19,226 +5.8
4	Benton County; Marshall County: Beat 5; Lafayette County: Beats 2 and 3	19,235 +5.9
5	Tippah County; Prentiss County: Beat 2	19,879 +9.4

6	Alcorn County: Beat 1, Beat 4, Beat 5, and the Precincts of Biggersville and Rienzi	19,377 +6.6
7	Tishomingo County: Beats 1, 2, 3, and 4 Alcorn County: Beat 2, and the Precinct of South Corinth	19,754 +8.7
8	Tunica County: Beats 1, 2, 3, and 4, plus the Armory Precinct; Coahoma County: The Precincts of Coahoma, Jonestown, Lula, and Mattson	16,635 —8.5
9	Tate County	18,544 +2.1
10	Panola County: Beats 1, 2, and 5	19,137 +5.3
11	Panola County: Beats 3 and 4; Yalobusha County: Beats 1, 2, 3, and 4	17,302 —4.8
12	Lafayette County: Beats 1, 4, and 5	17,252 —5.1
13	Union County	19,096 +5.1
14	Prentiss County: Beats 1, 3, 4, and 5; Tishomingo County: Beat 5	19,094 +5.1
15	Coahoma County: Beat 2; Lyon Precinct Beat 1; Clarksdale, Rena Lara, and Bobo Precincts in Beat 5	17,303 —4.8
16	Coahoma County: Beat 4; All Clarksdale Precincts in Beats 1 and 3; Roundaway Precinct in Beat 5	17,017 —6.4
17	Quitman County; Tunica County: The Precinct of Two Mile Lake	17,234 —5.2
18	Pontotoc County	17,363 —4.4

19	Lee County: Beat 1, Beat 2, and Belden Precinct	19,411 +6.8
20	Lee County: The Precincts of Auburn, Bissell, East Heights North, East Heights South, Eggville, Gilvo, Mooreville, Old Union, Palmetto, Tupelo III, Tupelo IV, Tupelo V, and Verona	19,058 +4.9
21	Itawamba County; Lee County: The Precincts of Petersburg, Plantersville, and Richmond	19,146 +5.4
22	Bolivar County: Beat 1, and the Precincts of Pace, Longshot, Shaw, Skene, and Stringtown; Sunflower County: The Precinct of Boyer-Linn	16,687 —8.2
23	Bolivar County: The Precincts of Central Cleveland, East Central Cleveland, East Cleveland, West Cleveland, and Boyle	17,037 —6.2
24	Bolivar County: Beat 3, and the Precincts of North Cleveland and Merigold	16,912 —6.9
25	Sunflower County: Beat 1, Beat 3, and the Precinct of Moorhead	17,605 —3.1
26	Sunflower County: Beat 5; Sunflower and Indianola Precincts in Beat 2; Dockery, Doddsville, and Ruleville Precincts in Beat 4	18,215 +0.2
27	Tallahatchie County: Beats 1, 2, 4, and 5, and the Precinct of Paynes	17,487 —3.8
28	Calhoun County; Yalobusha County: Beat 5	16,928 —6.8
29	Chickasaw County; Lee County: The Precincts of Pleasant Grove and Shannon	19,001 +4.6

30	Monroe County: Beat 4, and the Precincts of Aberdeen III, Lackey, Central Grove, Boyd's (Pine Grove), Nettleton, Willis, and Wren Lee County: The Precincts of Brewer, Kedron, and Nettleton	18,251 +0.4
31	Monroe County: Beat 1, Beat 2, and the Precincts of Amory V, Bartahatchie, Bigbee, Gattman, Grubb Springs, and Hamilton	18,976 +4.4
32	Issaquena County; Washington County: Beat 1, and the Precinct of Avon	18,205 +0.2
33	Washington County: The Precincts of Ward Center, Community Center, Arcola, and Hollandale	17,409 —4.2
34	Washington County: Beat 3, and the Precinct of New County Garage	19,472 +7.2
35	Washington County: The Precincts of Darlove, Bourbon, County Recreation Center, Industrial College, Leland Health Clinic, and Leland Light Plant	18,232 +0.3
36	Leflore County: Beat 1, Beat 3, and the Precinct of Money	18,111 —0.3
37	Leflore County: Beats 4 and 5	16,765 —7.7
38	Carroll County; Leflore County: The Precincts of Northeast Greenwood and East Greenwood; Attala County: Beat 3, less Possumneck Precinct	17,543 —3.5
39	Grenada County: Beats 1, 3, 4, and 5; Tallahatchie County: Beat 3, less Paynes Precinct	17,732 —2.4

40	Montgomery County; Grenada County: Beat 2	16,891 —7.0
41	The Counties of Choctaw and Webster;	18,487 +1.7
42	Clay County;	18,840 +3.7
43	Oktibbeha County: Beats 1, 3, 4, and the Precinct of Hickory Grove	18,981 +4.5
44	Oktibbeha County: Beat 5, and the Precincts of Northeast Starkville, and Osborn; Lowndes County: The Precincts of Mayhew, West Lowndes, Barrow, and University	18,721 +3.0
45	Lowndes County: The Precincts of Air Base, Caledonia, Rural Hill, New Hope, Fairview, and Coleman	18,641 +2.3
46	Lowndes County: The Precincts of Brandon, Lee High, Stokes-Beard, Sale, Franklin, Caldwell, and Hunt	18,162 —0.0
47	Sharkey County; Humphreys County: Beat 5; Yazoo County: The Precincts of Carter, Lake City, Zion, Eden, Free Run, East Midway, West Midway, Harttown, Enola, Fairview, and Holly Bluff	16,521 —9.1
48	Humphreys County: Beats 1, 2, 3, and 4; Holmes County: The Precincts of Coxburg, Tehula, and Thornton	17,406 —4.2
49	Holmes County: Entire County, less the Precincts of Coxburg, Tehula, and Thornton	17,602 —3.1
50	Attala County: Beats 1, 2, 4, 5, and the Precinct of Possumneck	18,659 +2.7

51	Winston County	18,406 +1.3
52	Noxubee County; Lowndes County: The Precincts of Crawford and Artesia	18,235 +0.4
53	Warren County: The Precincts of Beechwood, Jett, Redbone, Yokena, Goodrum, and Tingle	16,703 —8.1
54	Warren County: The Precincts of Cedar Grove, St. Aloysius, Auditorium, Central Fire, American Legion, Fire Station No. 7, and Jonestown	16,793 —7.6
55	Warren County: The Precincts of Kings, Oak Ridge, Walters, Brunswick, Redwood, Bovina, and Culkin; (Warren County reapportionment by Beats is on appeal to the Supreme Court). Yazoo County: The Precincts of Dover, East Bentonia, West Bentonia, Mechaniesburg, Phoenix, Satartia, Fugate, Deasonville, and Valley	17,006 —6.4
56	Yazoo County: The Precincts of Benton, Center Ridge, Robinette, East Courthouse, West Courthouse, South City Hall, North City Hall, West Lintonia, and East Lintonia (Yazoo County is in the process of reapportionment by Beats; hence we use Precincts.)	16,912 —6.9
57	Madison County: Beats 1, 4, and 5	19,853 +9.3
58	Leake County; Neshoba County: The Precincts of Hays, Turner, Dixon, and Groves	19,012 +4.6
59	Neshoba County: The entire County, less the Precincts of Hays, Turner, Dixon, and Groves	18,875 +3.9

60	Kemper County; Lauderdale County: All Precincts in Beats 1 and 2 outside the City of Meridian; The Precincts of Center Hill, Obadiah, Shucktown in Beat 3	19,342 +6.4
61	Hinds County: Precincts 17, 35-38, 42-45, Twin Pines	
62	Hinds County: Precincts 27, 29, 39-41, 79-83, Liberty Grove	
63	Hinds County: Precincts 1, 5, 6, 8, 9, 14-16, 32-34	
64	Hinds County: Precincts 12, 13, 21-23, 28, 30	
65	Hinds County: Precincts 2, 4, 10, 11, 18, 19, 50	
66	Hinds County: Precincts 20, 31, 52, 55-57, 61	
67	Hinds County: Precincts 47, 51, 53, 58, 63, 64, 66	
68	Hinds County: Precincts 24-26, 54, 59, 60, 62, 67-69	
69	Hinds County: Precincts 49, 70-77	
70	Hinds County: Precincts of Bolton, Brownsville, Clinton 1, Clinton 2, Clinton 3, Clinton 4, Cynthia, Flag Chapel, North Clinton, Pocahontas, Presidential Hills, Tinnin	
71	Hinds County: Precincts of Cayuga, Edwards, Fairfax, Hickory, Learned, Midway, Raymond 1, Raymond 2, Van Winkle 1, Van Winkle 2	
72	Hinds County: Precincts of Briarcliff, Byram, Chapel Hill, Dry Grove, Forest Hill, Old Byram, Red Hill, Terry, Utica 1, Utica 2, Woodville Heights The single member district plan ordered into effect by this 3-Judge Court for Hinds County in 1975 resulted in the election of three black Representatives, where none had been elected before. We leave these Districts unchanged.	
73	Rankin County: Beat 2; Madison County: Beats 2 and 3	18,731 +3.1

74	Rankin County: Beats 4 and 5	17,624 —3.0
75	Rankin County: Beats 1 and 3	17,462 —3.9
76	Scott County: Beats 1, 2, 4, and 5	17,087 —6.0
77	Newton County;	18,983 +4.5
78	Lauderdale County: Meridian City Precincts 1, 2, 3, 4, 7, and 8, and the County Precinct of School Gap	19,143 +5.3
79	Lauderdale County: Meridian City Precincts 5, 6, 9, 13, 14, 15, 16, 17, and 18, and the Precinct of East Bonita	19,266 +6.0
80	Lauderdale County: All Precincts in Beat 3 outside the City of Meridian except Obadiah, Shucktown, Center Hill, and School Gap; All Precincts in Beat 4 except Meridian Precinct No. 13; All Precincts in Beat 5 outside the City of Meridian except East Bonita	19,569 +7.7
81	The Counties of Claiborne and Jefferson;	19,381 +6.7
82	Copiah County: Beat 1, Beat 4, Beat 5, and the Precincts of East Hazlehurst, West Hazlehurst, Barlow, Glancy, and Allen	18,972 +4.4
83	Lawrence County; Copiah County: Beat 2 and the Precincts of Ainsworth and Martinsville West; Simpson County: The Precincts of Bridgeport, Pinola, and Shivers	18,647 +2.6
84	Simpson County: Beat 1, Beat 2, Beat 3, Beat 5; the Precincts of Magee North and Magee South	18,214 +0.2

85	Smith County; Scott County: Beat 2	17,848 —1.8
86	Jasper County: Beats 1, 3, 4, and 5; Jones County: The Precincts of Gitano, Matthews, and Shady Grove	17,408 —4.2
87	Clarke County; Jasper County: Beat 2	16,701 —8.1
88	Adams County: Beats 1 and 2, and the Precincts of Liberty Park, Concord, and Palestine	19,109 +5.2
89	Adams County: Beats 4 and 5, and the Precinct of Somerset	18,184 +0.1
90	Franklin County; Lincoln County: Beat 4, and the Precincts of Caseyville, Loyd Star, Old Red Star, Vaughn, and Zetus	16,966 —6.6
91	Lincoln County: Beat 1, Beat 2, Beat 3, and the Precinct of Northwest Brookhaven	17,243 +5.1
92	Jefferson Davis County: Beats 1, 3, 4, and 5; Covington County: Beat 3, Beat 4, Beat 5, and the Precincts of South Collins and Eminence	19,825 +9.1
93	Jones County: Beat 2, and the Precincts of West Jones, Mason School, 26th Street Fire Station, and Lamar School	17,470 —3.9
94	Jones County: Beat 3, and the Precincts of Sharon, Sandersville, City Barn, Maddox School, Stone Deavours School	18,439 +1.5
95	Jones County: Beat 4, and the Precincts of Moselle, Pendorf, Pine Grove, Rainey, South Jones, and Shelton	17,382 —4.3
96	Wayne County	16,650 —8.4

97	Wilkinson County Amite County: Beats 1, 2, and 3	19,354 +6.5
98	Pike County: Beats 1 and 5; Amite County: Beats 4 and 5	18,211 —0.2
99	Pike County: Beats 2, 3, and 4	19,053 +4.9
100	Walthall County; Jefferson Davis County: Beat 2; Marion County: The Precincts of Goss, Morgantown, White Bluff, Stovall, and Kokomo	18,371 +1.1
101	Marion County: Entire County except the Precincts of Goss, Morgantown, White Bluff, Stovall, and Kokomo	19,587 +7.8
102	Lamar County; Covington County: Beat 1, and the Precincts of Richmond and Sanford	19,735 +8.6
103	Forrest County: The Precincts of Lillie Burney, Woodley School, Jones School, Petal High, East Bowie, Petal-Harvey, Camp School, and Hawkins Junior High	17,504 —3.7
104	Forrest County: The Precincts of Blair High, Eatonville, Glendale, Petal-Leeville, Rawls Springs, Macedonia, Davis School, Grace Christian, and Pinecrest	17,555 —3.4
105	Forrest County: The Precincts of Central School, Dixie School, Westside, Eaton School, Sunrise, Walthall, Dixie Pine, Rowan High, William Carey, and Thames	17,799 —2.0

106	Forrest County: The Precincts of Forrest County A.H.S., McCallum, McLaurin, Brooklyn, Carnes, and Maxie; Pearl River County: The Precincts of Poplarville East, Poplarville West, Byrd Line, Hickory Grove, Gum Pond, Wolf River, Oak Hill, Hillsdale, Fords Creek, Buck Branch, White Sand, Mill Creek, Derby, Progress, Silver Run, Steep Hollow, Savannah, McNeill, and Caesar; Stone County: Beat 2	17,377 —4.4
107	The Counties of Greene and Perry;	17,610 —3.1
108	Pearl River County: Beat 4, and the Precincts of Picayune I, II, III, and V; the Precincts of Ozone, Carriere, and Salem	17,036 —6.2
109	George County; Stone County: Beats 1, 3, 4, and 5	18,940 +4.2
110	Hancock County;	17,387 —4.3
111	Harrison County: The Precincts of Biloxi Nos. 1-4, D'Iberville, North Bay, and White Plains	19,217 +5.8
112	Harrison County: The Precincts of Biloxi Nos. 5-7, 7A-8, Holly Hills, and Howard Creek	19,086 +5.0
113	Harrison County: The Precincts of Stonewall, West Handsboro, Biloxi Nos. 9-11, and East Handsboro	19,139 +5.3
114	Harrison County: The Precincts of Gulfport Nos. 7 and 12, New Hope, E & W Saucier, Gulfport No. 11, Advance, East Lyman, East Orange Grove, Peace, and Poplar Head	19,324 +6.3

115	Harrison County: The Precincts of Gulfport Nos. 4, 5, 6, 8, and 9, East and West Mississippi City, and East and West North Gulfport	19,380 +6.7
116	Harrison County: The Precincts of Gulfport Nos. 13 and 14, Gulfport Nos. 2, 3, and 10, outside Long Beach, West Orange Grove, West Lyman, and Lizana	19,020 +4.7
117	Harrison County: The Precincts of Gulfport No. 1, East Pass Christian, West Pass Christian, East Long Beach, West Long Beach, Pineville, Delisle, Ladner, Vidalia, and Riceville	19,416 +6.9
118	Jackson County: Beat 1	17,595 —3.2
119	Jackson County: Beat 2	17,595 —3.2
120	Jackson County: Beat 3	17,595 —3.2
121	Jackson County: Beat 4	17,595 —3.2
122	Jackson County: Beat 5	17,595 —3.2
	(The County has been reapportioned by Federal Court Order, with practically equal population in each Beat.)	
	Total Population assigned to the 122 Districts	2,216,912
	Total Population of the State, 1970 Census	2,216,912

Explanatory Notes

The special problems and unusual circumstances involved in dismantling a 159 year old system of legislative elections in Mississippi, and constructing an entirely new system of single member districts, were described in our opinion of August 24, 1976, redistricting the State for the election of 52 Senators. We need not repeat them with reference to the House of Representatives, except to emphasize that the exceedingly low 1% population norm of 181 persons has made our task with reference to 122 House members far more difficult.

We are aware that in Chapman v. Meier, 96 S.Ct. at 764, with reference to court-ordered plans the Supreme Court held that a maximum deviation of 20% is

> "impermissible in the absence of significant state policies or other considerations that require adoption of a plan with so great a variance. The burden is on the District Court to elucidate the reasons necessitating any departure from the goal of population equality, and to articulate clearly the relationship between the variance and the state policy furthered".

This Court makes no effort to conceal its unhappiness that in this 122 seat reapportionment District 5 is 9.4% over the norm, District 57 is 9.3% over the norm, and District 92 is 9.1% above the norm. District 47 is 9.1% below the norm. Thus, there is an aggregate deviation of 18.5%. Even so, 74 districts vary no more than 5% either way.

Districts 5 and 92 are in the heavily populated white area of Northeast Mississippi. Tippah County is 16% black. Prentiss County is 11% black. The Districts are surrounded by Districts also above the norm. A shift of a few dangling precincts, of uncertain population, to achieve a smaller variation would have no impact on the personal identity or political principles of the Representatives chosen from these

Districts. On the other hand, considering Mississippi's system of counties, beats, precincts, and permanent voter registration such shifts would complicate the legislative electoral process in this area, with no added benefit to the effectiveness of the individual vote.

District 47 is situated in a solidly black area (black population percentages 68%, 64%, and 53%). It is in the Delta, cut up by numerous bayous, lakes and a major river. It is surrounded by Districts already below the norm.

District 57 is wholly within Madison County (62.3% black), which has not been reapportioned under the one man-one vote rule. When this occurs this District will have approximately 17,841 people, or 1.2% below the norm.

District 92 is composed of parts of two small counties, adjacent to the County of Jones, which alone has enough population for 3 Representatives. Diligent search for a viable percentage reduction here has been fruitless.

BLACK POPULATION MAJORITY DISTRICTS IN THIS COURT ORDERED REAPPORTIONMENT OF THE MISSISSIPPI HOUSE OF REPRESENTATIVES

District 3	Marshall County is 61.9% black.
Districts 8, 15, and 16	Tunica County is 72.6% black; Coahoma County is 64.3% black.
District 10	Panola County is 51.2% black.
District 17	Quitman County is 57.4% black; Tunica County is 72.6% black.
Districts 22, 23, 24, 25, and 26	Bolivar County is 61.4% black; Sunflower County is 62.7% black.
District 27	Tallahatchie County is 60.1% black.
Districts 32, 33, 34, and 35	Issaquena County is 62% black; Washington County is 54.4% black.

Districts 36 and 37	Leflore County is 57.8% black.
District 38	Carroll County is 50.7% black, Leflore County is 57.8% black, Beat 3 of Attala County is 25% black.
Districts 47, 48, 49, and 56	Sharkey and Humphrey Counties are 64% black, Holmes County is 68% black, and Yazoo County is 53% black.
District 52	Noxubee County is 65% black; the precincts of Artesia and Crawford are preponderantly black.
District 57	Madison County is 62.3% black.
Districts 61-72 Hinds County	Elected three black Representatives in 1975.
District 81	Claiborne County is 74.5% black; Jerferson County is 75.2% black.
District 97	Wilkinson County is 67% black; Amite County is 50.4% black.

Thirty Districts have black population majorities.

Kemper County, black population 54%, is the only black majority county wholly attached to a white majority county area to form a district. It has only 10,233 people, 56% of the required population norm for a House Seat.

Special Elections

In the Order of June 25, 1975, we stated that when a permanent plan for the reapportionment of the Mississippi Legislature "shall have been accomplished, special elections may be ordered in those legislative districts where required by law, equity, or the Constitution of the United States".

In our Order of July 8, 1975, dealing with the temporary plan for elections in that year, we said:

> "We have determined that no irreparable injury will occur by allowing the 1975 legislative elections to proceed under a temporary plan on the dates provided by law. If the permanent plan, later to be adopted manifests that the temporary plan has caused such an [irreparable] injury the same shall be corrected by special elections as provided by Mississippi law."

As in our partial decree of August 24, 1976, with reference to the Mississippi State Senate, we now direct the parties within fifteen (15) days to file a list of the districts for the election of Representatives in which special elections should be held, if there are any such districts, assigning their reasons as to each district individually.

Upon the receipt of this information, the Court will rule thereon as quickly as reasonably possible. Should special elections be ordered in any district, the same will be held only after fully adequate notice and in time for the person elected to take his seat when the Legislature is convened in regular session in January, 1977.

This is not a final decree. The final decree, incorporating all decrees, will be entered when the Court disposes with the matter of special elections.

So Ordered, Adjudged, and Decreed, this the 8th day of September, 1976.

/s/ James P. Coleman
United States Circuit Judge

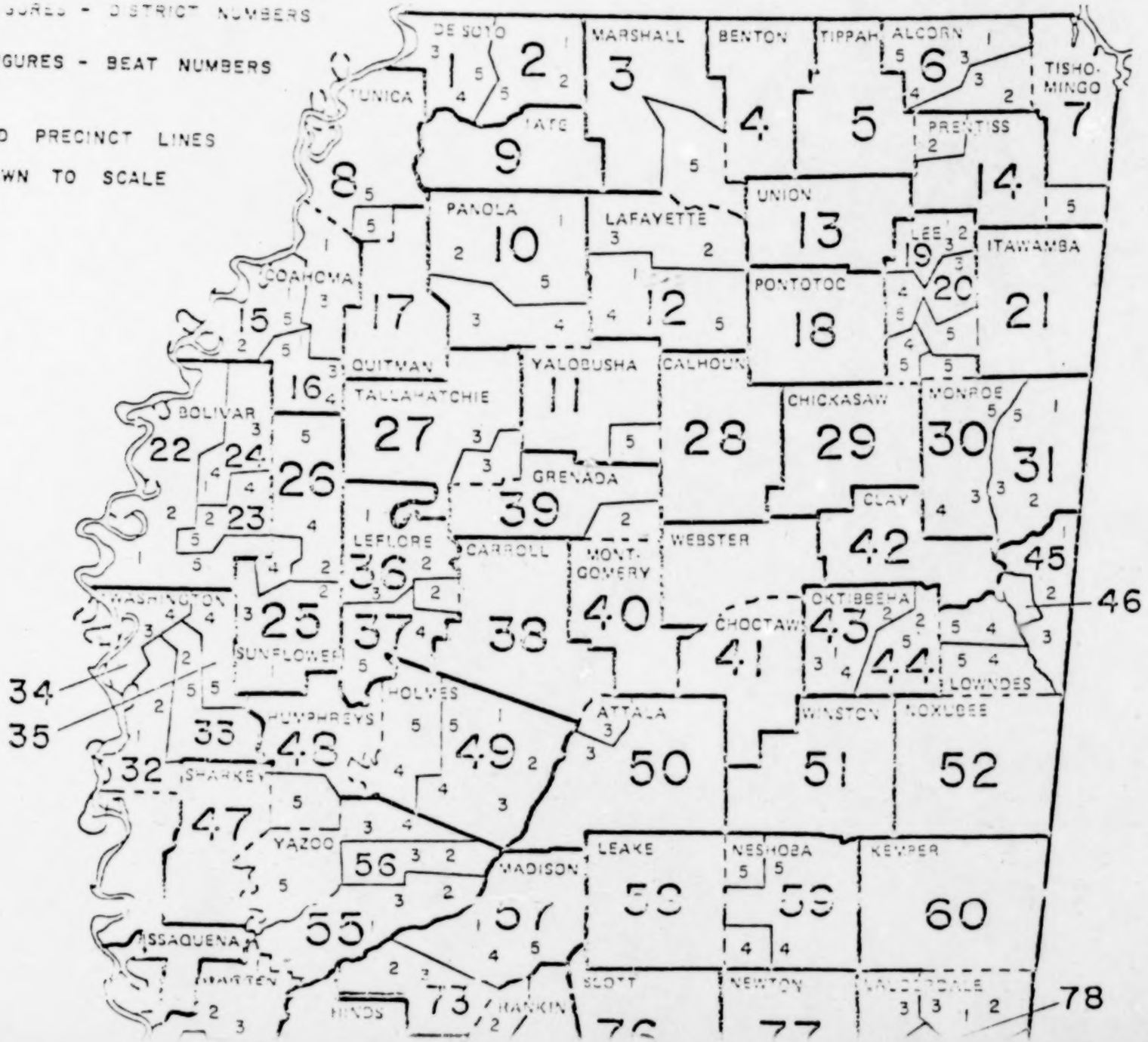
/s/ Dan M. Russell, Jr.
Chief Judge, United States
District Court

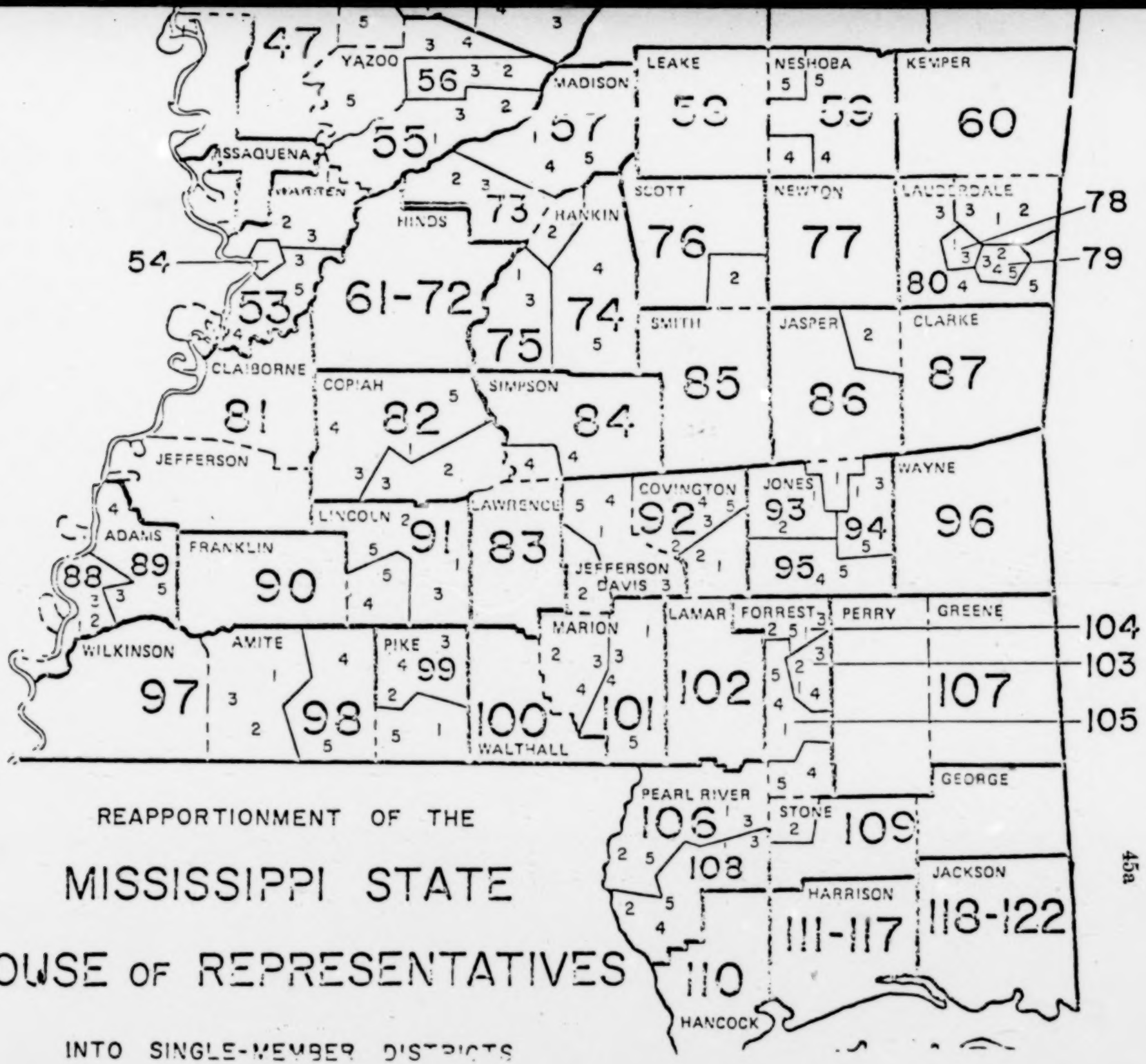
/s/ Harold Cox
United States District Judge

LARGE FIGURES - DISTRICT NUMBERS

SMALL FIGURES - BEAT NUMBERS

BEAT AND PRECINCT LINES
NOT DRAWN TO SCALE





REAPPORTIONMENT OF THE

MISSISSIPPI STATE

OUSE OF REPRESENTATIVES

INTO SINGLE-MEMBER DISTRICTS

APPENDIX C

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

(CAPTION OMITTED IN PRINTING)

(Filed November 12, 1976)

Before COLEMAN, *Circuit Judge,* RUSSELL and COX, *District Judges.*

PER CURIAM:

This is the third, and the last, of a series of decrees reapportioning the Mississippi Legislature.[1]

The first decree reapportioned the State Senate from multiple member to single member districts, August 24, 1976, —— F. Supp. —— (S.D. Miss., 1976).

The second decree reapportioned the House of Representatives from multiple member to single member districts, September 8, 1976, —— F. Supp. —— (S.D. Miss., 1976).

The private plaintiffs and the Department of Justice have filed objections. To improve upon discrepancies involving contiguity and population, the reapportionment of the House of Representatives is hereby amended in the following respects, and to that extent only:

District	Geographical Description	Population	Variance
8	Coahoma County: The Precincts of Coahoma, Lula, Lyon, and Jonestown; Tunica County: Beats 1, 2, 3 and 4; also Armory Precinct	16,813	—7.5

15	Coahoma County: Beat 2 and all Clarksdale Precincts in Beats 1 and 3	16,677	—8.2
16	Coahoma County: Beat 4, Beat 5, and Mattson Precinct	17,465	—3.9
53	Warren County: The Precincts of Yokena, Redbone, Goodrow, Tingle, Beechwood, Culkin, Kings, St. Aloyisuis, and American Legion (Blackburn)	16,928	—6.8
54	Warren County: The Precincts of Jett, Fire Station #7, and Jonestown	16,492	—9.2

(The reapportionment of Warren County by Beats is on appeal to the Supreme Court. Precinct structure must conform to Beat structure.)

55	Warren County: The Precincts of Bovina, Oak Ridge, Redwood, Walters, Brunswick, Cedar Grove, Auditorium and Central Fire Station Yazoo County: The Precincts of Dover, East Bentonia, West Bentonia, Phoenix, Mechanicsburg, Sartartia, Fugate, Deasonville, and Valley	17,082	—6.0
60	Kemper County: Lauderdale County: All Precincts in Beats 1 and 2 outside the City of Meridian; the Precincts of Obadiah and Shucktown in Beat 3	18,932	+4.2

78	Lauderdale County: Meridian City Precincts 1, 2, 3, 7 and 8, and the County Precincts of School Gap and Nellieburg in Beat 3	19,751	+8.7
80	Lauderdale County: All Precincts in Beat 3 outside the City of Meridian except Obadiah, Shucktown, School Gap and Nellieburg; All Precincts in Beat 4 except Meridian Precinct No. 13; All Precincts in Beat 5 outside the City of Meridian except East Bonita	19,371	+6.6
98	Amite County: Beats 4 and 5 Pike County: Beats 4 and 5	17,995	—1.0
99	Pike County: Beats 1, 2 and 3	19,243	+6.0[2]

Special Elections

The one remaining substantial issue in this case is whether we should require special elections in any of the newly created legislative districts. The 1975 elections were held pursuant to a temporary plan devised by this Court, from which no party appealed or sought a stay.

On the entire record we have already held that an attempted reapportionment enacted by the Mississippi Legislature in 1975 was not unconstitutional, Conner v. Waller, 396 F. Supp. 1308, reversed on other grounds, 421 U.S. 656 (1975). The exhaustive analysis of the 1975 legislative act reported at 396 F. Supp., 1308-1341, is made a part of this opinion by reference. Suffice it to say that our 1975 court plan proceeded to tighten the legislatively enacted reappor-

tionment. We remain of the view, then expressed, that the temporary plan comported with all pertinent Constitutional standards.

Consequently, we conclude that the only available thesis for ordering special elections in any of the newly formulated legislative districts would be where required to remedy any impermissible dilution of black voting strength in the temporary plan when compared with the permanent plan established for the 1979 elections.

The subject has its difficulties. See "Minority Challenges to At-Large Elections: The Dilution Problem", 10 Georgia Law Review 353 (1976).

The Fifth Circuit has written copiously in this field, two of its more recent decisions being McGill v. Gadsden County Commission, 5 Cir. 1976, 535 F.2d 277, and Paige v. Gray, 5 Cir. 1976, 538 F.2d 1108. These cases reviewed the jurisprudence, including such cases as East Carroll Parish School Board v. Marshall, —— U.S. ——, 96 S.Ct. 1083, 47 L.Ed.2d 296 (1976).

From these cases it seems clear that (1) those who assert dilution of black voting strength have the burden of proving it; and (2) the significance of past discrimination in dilution cases lies in how it bears on political participation today.

In any event, the standards established in the Fifth Circuit *Zimmer* decision, reaffirmed in *Paige,* 538 F.2d at 1111, are:

> Where a minority can demonstrate lack of access to the process of slating candidates, the unresponsiveness of legislators to their particularized interests, a tenuous state policy underlying the preference for multi-member or at-large districting, or that the existence of past discrimination in general precludes the effective participation in the election system, a strong case is

> made. Such proof is enhanced by a showing of the existence of large districts, majority vote requirements, anti-single shot voting provisions and the lack of provision for at-large candidates running from particular geographical subdistricts. The fact of dilution is established upon proof of the existence of an aggregate of these factors. The Supreme Court's recent pronouncement in *White* v. *Regester, supra,* demonstrates, however, that all these factors need not be proved in order to obtain relief.
> 485 F.2d at 1305.

We think the Eighth Circuit correctly defined the principle when it said,

> The constitutional touchstone is whether the system is open to full minority participation, not whether proportional representation is in fact achieved.
>
> Dove v. Moore, 8 Cir. 1976, 539 F.2d 1152, 1155.

The electoral process in Mississippi has never known the practice generally described as "slating candidates".

The failure of the plaintiffs to demonstrate any present impact from past discrimination is described at 396 F. Supp. 1325.

Our prior opinion, 396 F. Supp. 1308, 1325, demonstrated the failure of the plaintiffs to show legislative unresponsiveness to the needs of black citizens.

The long established state policy of multi-member districts was thoroughly discussed at 396 F. Supp. 1323.

The Attorney General of the United States dispatched numerous federal observers to witness the 1975 elections in Mississippi—first primary, second primary, and general election. At these elections state and local officials are nominated and elected, *from constable to governor.* We requested a detailed report from the Attorney General as to

any observed interference with the right of black citizens to participate in the 1975 elections. Nothing was reported beyond some disputes as to whether an individual was registered to vote in the precinct where he was offering to vote, whether he was registered at all, and such like. We observe that the Department of Justice has initiated no prosecutions for alleged violations of federally guaranteed voting rights in 1975.

Observers were dispatched to Mississippi to observe the 1976 Presidential and Congressional elections. The Attorney General has notified this Court of no interference with the right to vote in 1976. On the other hand, the press has uniformly reported that an unusually heavy turn-out of black voters produced the Presidential victory in Mississippi.

We have no difficulty in holding that at the present day interference with the right of black citizens to cast their ballots is a myth. We reaffirm our prior holding, 396 F. Supp. 1326, "that the Voting Rights Act of 1965 has effectually reduced all such racially discriminatory factors to what honestly may be termed an irreducible minimum".

The Senate

There is no justification for ordering special elections in any newly created senatorial district. Every such district with a black population majority was part of a black majority district in 1975. The only difference is that there no longer will be any multiple member districts.

The House of Representatives

Under our 1975 temporary plan there were 49 single member House districts and 7 single member flotorial districts. Twenty multiple member districts elected two representatives each, three elected three members each, and three elected four members each. Our 1979 plan has no multiple member districts.

We now discuss the newly created black majority districts, brought into existence where no black majority district previously existed.

New District 52. Noxubee County and the Precincts of Crawford and Artesia in Lowndes County.

From 1890 until 1962, under the inelastic provisions of the Constitution of 1890, Noxubee County had three Representatives in the Legislature. It now has 14,288 people, less than enough for one Representative. The black population is 9,397. The white population is 4,844. Under the temporary 1975 plan Noxubee County was combined with Oktibbeha County in District 23A for the election of two Representatives. It was also included in District 23B for the election of a flotorial Representative. The white population of District 23A is 23,413; the black population is 19,401. The 9,397 black citizens of Noxubee County, in a county with not enough population of its own to elect one Representative, took part in the election of three Representatives, two of them coming from a district which was 55% white and 45% black. A special election in new District 52 would necessitate special elections in new Districts 43, 44, 45, and 46, of which Noxubee County is not a part.

For all these reasons, no special election will be ordered for new District 52.

New District 79. Lauderdale County: Meridian City Precincts 5, 6, 9, 13, 14, 15, 16, 17, and 18, and the Precinct of East Bonita.

This newly formed district was in 1975 District No. 79, which had a white population of 65.5%. The black population of the new district is 56.1%.

A special election in this District will be ordered.

New District 81. The Counties of Claiborne and Jefferson.

Claiborne County has 10,086 people, of whom 7,522 are black, 2,536 are white.

Jefferson County has 9,225 people, of whom 6,966 are black and 2,296 are white.

It will be observed that neither county has enough people to elect a Representative.

Under the 1975 plan, Jefferson County was included in District 32 with Copiah County, a black majority county.

Claiborne County was included with Warren County in District 30 for the election of three Representatives. Warren County has 18,355 black population and 26,474 white. The totals for District 30 (Claiborne and Warren) were 29,410 white and 25,877 black (53% white, 47% black).

An added problem is that a special election in new District 81 would necessitate special elections in new Districts 53, 54, and 55 (Warren County). The redistricting of beats in Warren County (which necessarily entails the reconstitution of voting precincts) is now on appeal to the Supreme Court. Until the Supreme Court shall have decided that matter, we do not consider that equity requires that we should risk illegal elections in the three Warren County districts.

For all of these reasons, no special election will be ordered in new District 81.

New District 3. Beats 1, 2, 3, and 4 of Marshall County.

In 1975 this area was in District 3A for the election of Representatives. That district included all five beats in Marshall County, instead of four beats as now reconstituted. Marshall County also participated in the election of a floater representative, District 3B. Marshall County has a population of 14,891 black people and 9,101 whites. At the

general election of November 4, 1975, a white candidate for representative in District 3A received 5,573 votes. His black opponent received 3,317, carrying ten of the fifty precincts. It would appear that the black people of Marshall County have spoken and we know of no constitutional or equitable principle which would require us to undo the action they have taken.

New District 97. Wilkinson County: Amite County; Beats 1, 2 and 3.

Wilkinson County has a population of 11,099, approximately 61% of the amount required for a representative. It has 7,499 blacks and 3,588 whites. Under the 1975 plan it was in District 34, which had a 54.2% white majority. New District 97, in which Wilkinson is now included, has a total black population of 60.6%.

A special election will be ordered in this District.

Other Districts

The remaining new districts with black population majorities participated in the 1975 elections in districts which had black population majorities at that time. Therefore, special elections will not be ordered in those areas.

Plaintiffs have argued that we should order special elections in all new districts in which two presently sitting Representatives have been thrown together, as well as in the areas which they say are now "left without representation". This argument overlooks the fact that what we have done is to devise a permanent plan for the election of legislators in 1979, not a plan for the wholesale reconstitution of the Legislature in mid-term. The legislators in these areas were elected to represent them for a full four years unless special elections were necessary. There is nothing of record to indicate that such legislators will now neglect the areas from which they were duly chosen.

Except as hereinabove set forth, all objections and motions for special elections filed by the private plaintiffs and the Department of Justice are found to be without merit and are denied.

The Timing of Special Elections

In fixing a time for special elections, the Court is faced with a dilemma. On October 8, 1976 the Court held an afternoon's conference with the parties to determine if an agreed decree might be entered as to the identity of the districts in which special elections were to be held. The purpose was to avoid the possibility of sending persons to the Legislature in an election which the Supreme Court might later render illegal by disapproving our plan of reapportionment, also possibly unseating legislators lawfully elected in 1975. The effort was nonproductive.

It was suggested that a few new districts might be allowed to elect added members of the House of Representatives, to serve only until the 1979 elections. This would mean that if the plan should fail to pass the scrutiny of the Supreme Court then only those seats would be vacated and the legislative process would not be unduly disrupted. This was suggested particularly with reference to the districts hereinabove discussed in detail. The Supreme Court has held that it would not disapprove minor variations from a state's prescribed legislative numbers when such a change is shown to be necessary to meet constitutional requirements, Minnesota State Senate v. Beens, 406 U.S. 187, 199 (1972). The private plaintiffs objected on the ground that this would dilute the legislative voting strength of the presently sitting four black mebers of the House of Representatives. Consequently, we abandoned that approach.

We have concluded that the equitable and least disruptive course would be for the Court to refrain from setting dates for special legislative elections until time for an appeal has expired or until the Supreme Court shall have decided an

appeal on the merits. We expressly retain jurisdiction of the case for the purpose of setting dates for special elections as soon as one of the above alternatives shall have occurred.

Court Costs, Special Masters' Fees, and Attorneys' Fees

All appropriate and legal costs of court are adjudged against the defendants, for which judgment, when the amount is computed, will be entered against the State of Mississippi, Fitzpatrick v. Bitzer, —— U.S. ——, 96 S.Ct. 2666, —— L.Ed.2d —— (1976).

The Court has heretofore found that the Mississippi Legislature made a good faith effort to reapportion itself in 1973 and 1975. The 1975 effort was upheld by this Court but failed on account of the disapproval of the Attorney General of the United States. We are thus of the opinion that no attorneys' fees are allowable in this case.

The amount of the fees to be allowed the special masters for their services, for which judgment will be awarded against the State, will be determined after an evidentiary hearing on the reasonableness of such fees, for which jurisdiction is also retained.

The private plaintiffs and the Department of Justice will prepare and submit a proposed judgment, written on a separate document, in accordance with the Rules, embodying each and every appropriate part of the decrees rendered on August 24, 1976, September 8, 1976, and on this date. When such judgment shall have been duly approved and entered the same will be a final judgment on the reapportionment of the Mississippi Legislature.

So Ordered, Adjudged, and Decreed, this the —— day of November, 1976.

/s/ Jas. P. Coleman,
United States Circuit Judge

FOOTNOTE No. 1

We have heretofore described the difficulties involved in the transportation of Mississippi system of multiple member districts into a statewide single-member system for the election of legislators. The acute difficulty arises from the absence of precinct population figures and because most of the county beats have been reapportioned since 1970. No census has been taken within the new beat boundaries. We have used estimates as nearly accurate as obtainable, compiled from known factors. The private plaintiffs and the Justice Department disagree with many of these estimates, but their disagreements are *also based on estimates*. It comes down to whether single member reapportionment shall be allowed to founder on these population disagreements. We decline to embrace that result.

The Department of Justice argues that the use of beat lines results in dilution of black voting strength. There is no credible evidence in this record to support that theory.

FOOTNOTE No. 2

The final judgment in this case, to be set forth on a separate document, Rule 58, Federal Rules of Civil Procedure, will reflect the changes hereinabove set forth.

APPENDIX D

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

(CAPTION OMITTED IN PRINTING)

Final Judgment

(Filed November 18, 1976)

In accordance with the opinions of the Court entered on August 24, 1976, September 8, 1976, and November 12, 1976, it is ORDERED, ADJUDGED, AND DECREED, the defendants, Cliff Finch, Governor of Mississippi, A. F. Summer, Attorney General of Mississippi, Heber Ladner, Secretary of State of Mississippi, Evelyn Gandy, Lieutenant Governor of Mississippi, and Presiding Officer of the Mississippi Senate, William B. Alexander, President Pro Tempore of the Mississippi Senate, and C. B. "Buddie" Newman, Speaker of the Mississippi House of Representatives, their officers, agents, servants, employees, attorneys, successors in office, and all persons in active concert or participation with them, are permanently restrained and enjoined as follows:

1. The following permanent legislative reapportionment plans are hereby ordered into full force and effect for the regular quadrennial elections of 1979 and thereafter until altered according to law.

2. Except in those instances in which a special election is ordered, these plans shall not affect the terms of office of legislators elected in 1975.

3. In the event of the death, resignation or removal from office of a legislator presently in office, the vacancy so created shall be filled by a special election in that district promulgated for 1979 in which the legislator shall have resided at the time of such death, resignation or removal from office.

4. The removal by a legislator of his residence from one place to another within the district for which he was elected in 1975 shall not affect the term of office for which he was elected.

5. The 52 members of the Mississippi State Senate to be chosen in the quadrennial election year of 1979 shall be elected from districts consisting of the specified counties, beats, and precincts as follows:

SENATE DISTRICTS

District Number	Description
1	DeSoto County;
	Marshall County: Beat 3
2	Lafayette County;
	Marshall County: Beats 1, 2, 4, and 5
3	The Counties of Benton, Pontotoc, and Union
4	The Counties of Alcorn and Tippah
5	The Counties of Prentiss and Tishomingo
	Itawamba County: Beats 1 and 2
6	Lee County
7	Monroe County;
	Itawamba County: Beats 3, 4, and 5
8	Lowndes County: less Air Base Precinct
9	The Counties of Chickasaw and Clay
	Lowndes County: Air Base Precinct
10	The Counties of Choctaw, Montgomery, and Webster;

	Calhoun County: Beats 1, 2, 4, and 5
11	The Counties of Panola and Yalobusha;
	Calhoun County: Beat 3
12	The Counties of Tate and Tunica;
	Quitman County: Beats 1, 2, 3, and 5
13	Coahoma County;
	Quitman County: Beat 4
14	Bolivar County: except the Precincts of Shelby and Duncan-Alligator
15	Sunflower County;
	Bolivar County: the Precincts of Shelby and Duncan-Alligator
16	Washington County: Beats 1, 3, and 4
17	Humphreys County;
	Washington County: Beats 2 and 5
18	Leflore County
19	The Counties of Grenada and Tallahatchie
20	The Counties of Carroll and Leake;
	Attala County: Beats 1, 2, 3, and 4
21	The Counties of Neshoba and Winston;
	Attala County: Beat 5
22	The Counties of Noxubee and Oktibbeha
23	Kemper County;
	Lauderdale County: Beats 1 and 3
24	Clarke County: Beat 4;
	Lauderdale County: Beats 2, 4, and 5

25 The Counties of Jasper and Smith;
Clarke County: Beats 1, 2, 3, and 5

26 The Counties of Newton and Scott

27 Rankin County

28 Madison County;
Holmes County: Beats 2 and 3;
Yazoo County: Beats 2 and 4

29 The Counties of Issaquena and Sharkey;
Holmes County: Beats 1, 4, and 5
Yazoo County: Beats 1, 3, and 5

30 Warren County

31 Hinds County: Beat 1

32 Hinds County: Beat 2

33 Hinds County: Beat 3

34 Hinds County: Beat 4

35 Hinds County: Beat 5

36 Simpson County;
Copiah County: Beats 1, 2, 4, and 5

37 The Counties of Claiborne and Lincoln;
Copiah County: Beat 3

38 Jefferson County;
Adams County: Beats 1, 2, 4, and 5

39 The Counties of Amite, Franklin and Wilkinson;
Adams County: Beat 3

40 Pike County;
Walthall County: Beats 1, 2, and 3

41 The Counties of Lawrence and Marion;
Jefferson Davis County: Beat 2
Walthall County: Beats 4 and 5

42 Covington County;
Jefferson Davis County: Beats 1, 3, 4, and 5
Jones County: Beat 5, and the Precincts of County Barn and Ellisville Courthouse

43 Jones County: Beats 1, 2, 3, and 4, less the Precincts of County Barn and Ellisville Courthouse

44 Forrest County: Beats 1, 2, and 3; the Precincts of Camp School, Dixie Pine, Hawkins Junior High, Rowan High, William Carey, and McCallum

45 The Counties of Lamar and Perry;
Forrest County: Beat 5 and the Precincts of County A.H.S. and McLaurin
Stone County: Beats 1 and 2

46 The Counties of George, Greene, and Wayne;
Stone County: Beats 3, 4, and 5

47 The Counties of Hancock and Pearl River

48 Harrison County: the City of Gulfport and Precinct 11 in the City of Biloxi

49 Harrison County: all of the City of Biloxi except Precinct 11

50 Harrison County: all that part outside the Cities of Biloxi and Gulfport

51	Jackson County: all that part outside the Cities of Moss Point and Pascagoula plus the Precinct of Bayou Casotte No. 4
52	Jackson County: the City of Moss Point; all of the City of Pascagoula except the Precinct of Bayou Casotte No. 4

6. For the regular quadrennial election of 1979, and thereafter until changed according to law, the 122 members of the Mississippi House of Representatives shall be elected from 122 districts as follows:

HOUSE DISTRICTS

District Number	Description
1	DeSoto County: Beat 3, Beat 4, and the Precinct of Hernando East
2	DeSoto County: Beat 1, Beat 2, and the Precincts of Alphaba, Lewisburg West, Love, Nesbit East, and Pleasant Hill
3	Marshall County: Beats 1, 2, 3, and 4
4	Benton County; Marshall County: Beat 5; Lafayette County: Beats 2 and 3
5	Tippah County; Prentiss County: Beat 2
6	Alcorn County: Beat 1, Beat 4, Beat 5, and the Precincts of Biggersville and Rienzi
7	Tishomongo County: Beats 1, 2, 3, and 4 Alcorn County: Beat 2, and the Precinct of South Corinth

8	Coahoma County: The Precincts of Coahoma, Lula, Lyon, and Jonestown; Tunica County: Beats 1, 2, 3, and 4; also Armory Precinct
9	Tate County;
10	Panola County: Beats 1, 2, and 5
11	Panola County: Beats 3 and 4; Yalobusha County: Beats 1, 2, 3, and 4
12	Lafayette County: Beats 1, 4, and 5
13	Union County;
14	Prentiss County: Beats 1, 3, 4, and 5; Tishomingo County: Beat 5
15	Coahoma County: Beat 2 and all Clarksdale Precincts in Beats 1 and 3
16	Coahoma County: Beat 4, Beat 5, and Mattson Precinct
17	Quitman County; Tunica County: The Precinct of Two Mile Lake
18	Pontotoc County;
19	Lee County: Beat 1, Beat 2, and Belden Precinct
20	Lee County: The Precincts of Auburn, Bissell, East Heights North, East Heights South, Eggville, Gilvo, Mooreville, Old Union, Palmetto, Tupelo III, Tupelo IV, Tupelo V, and Verona
21	Itawamba County; Lee County: The Precincts of Petersburg, Plantersville, and Richmond

22 Bolivar County: Beat 1, and the Precincts of Pace, Longshot, Shaw, Skene, and Stringtown;

Sunflower County: The Precinct of Boyer-Linn

23 Bolivar County: The Precincts of Central Cleveland, East Central Cleveland, East Cleveland, West Cleveland, and Boyle

24 Bolivar County: Beat 3, and the Precincts of North Cleveland and Merigold

25 Sunflower County: Beat 1, Beat 3, and the Precinct of Moorhead

26 Sunflower County: Beat 5;

Sunflower and Indiahola Precincts in Beat 2;

Dockery, Doddsville, and Ruleville Precincts in Beat 4

27 Tallahatchie County: Beats 1, 2, 4, and 5, and the Precinct of Paynes

28 Calhoun County;

Yalobusha County: Beat 5

29 Chickasaw County;

Lee County: The Precincts of Pleasant Grove and Shannon

30 Monroe County: Beat 4, and the Precincts of Aberdeen III, Lackey, Central Grove, Boyd's (Pine Grove), Nettleton, Willis, and Wren

Lee County: The Precincts of Brewer, Kedron, and Nettleton

31 Monroe County: Beat 1, Beat 2, and the Precincts of Amory V, Bartahatchie, Bigbee, Gattman, Grubb Springs, and Hamilton

32 Issaquena County:

Washington County: Beat 1, and the Precinct of Avon

33 Washington County: The Precincts of Ward Center, Community Center, Arcola, and Hollandale

34 Washington County: Beat 3, and the Precinct of New County Garage

35 Washington County: The Precincts of Darlove, Bourbon, County Recreation Center, Industrial College, Leland Health Clinic, and Leland Light Plant

36 Leflore County: Beat 1, Beat 3, and the Precinct of Money

37 Leflore County: Beats 4 and 5

38 Carroll County;

Leflore County: The Precincts of Northeast Greenwood and East Greenwood

Attala County: Beat 3, less Possumneck Precinct

39 Grenada County: Beats 1, 3, 4, and 5;

Tallahatchie County: Beat 3, less Paynes Precinct

40 Montgomery County;

Grenada County: Beat 2

41 The Counties of Choctaw and Webster;

42 Clay County;

43 Oktibbeha County: Beats 1, 3, 4, and the Precinct of Hickory Grove

44 Oktibbeha County: Beat 5, and the Precincts of Northeast Starkville, and Osborn;

Lowndes County: The Precincts of Mayhew, West Lowndes, Barrow, and University

45 Lowndes County: The Precincts of Air Base, Caledonia, Rural Hill, New Hope, Fairview, and Coleman

46 Lowndes County: The Precincts of Brandon, Lee High, Stokes-Beard, Sale, Franklin, Caldwell, and Hunt

47 Sharkey County;

Humphreys County: Beat 5;

Yazoo County: The Precincts of Carter, Lake City, Zion, Eden, Free Run, East Midway, West Midway, Harttown, Enola, Fairview, and Holly Bluff

48 Humphreys County: Beats 1, 2, 3, and 4;

Holmes County: The Precincts of Coxburg, Tchula, and Thornton

49 Holmes County: Entire County, less the Precincts of Coxburg, Tchula, and Thornton

50 Attala County: Beats 1, 2, 4, 5, and the Precinct of Possumneck

51 Winston County;

52 Noxubee County;

Lowndes County: The Precincts of Crawford and Artesia

53 Warren County: The Precincts of Yokena, Redbone, Goodrow, Tingle, Beechwood, Culkin, Kings, St. Aloysius, and American Legion (Blackburn)

54 Warren County: The Precincts of Jett, Fire Station No. 7, and Jonestown

55 Warren County: The Precincts of Bovina, Oak Ridge, Redwood, Walters, Brunswick, Cedar Grove, Auditorium and Central Fire Station

Yazoo County: The Precincts of Dover, East Bentonia, West Bentonia, Phoenix, Mechanicsburg, Satartia, Fugate, Deasonville, and Valley

56 Yazoo County: The Precincts of Benton, Center Ridge, Robinette, East Courthouse, West Courthouse, South City Hall, North City Hall, West Lintonia, and East Lintonia

57 Madison County: Beats 1, 4, and 5

58 Leake County;

Neshoba County: The Precincts of Hays, Turner, Dixon, and Groves

59 Neshoba County: The entire county, less the Precincts of Hays, Turner, Dixon, and Groves

60 Kemper County

Lauderdale County: All Precincts in Beats 1 and 2 outside the City of Meridian; the Precincts of Obadiah and Shucktown in Beat 3

61 Hinds County: Precincts 17, 35-38, 42-45, Twin Pines

62 Hinds County: Precincts 27, 29, 39-41, 79-83, Liberty Grove

63 Hinds County: Precincts 1, 5, 6, 8, 9, 14-16, 32-34

64 Hinds County: Precincts 12, 13, 21-23, 28, 30

65 Hinds County: Precincts 2, 4, 10, 11, 18, 19, 50

66 Hinds County: Precincts 20, 31, 52, 55-57, 61

67 Hinds County: Precincts 47, 51, 53, 58, 63, 64, 66

68 Hinds County: Precincts 24-26, 54, 59, 60, 62, 67-69

69 Hinds County: Precincts 49 70-77

70 Hinds County: Precincts of Bolton, Brownsville, Clinton 1, Clinton 2, Clinton 3, Clinton 4, Cynthia, Flag Chapel, North Clinton, Pocahontas, Presidential Hills, Tinnin

71 Hinds County: Precincts of Cayuga, Edwards, Fairfax, Hickory, Learned, Midway, Raymond 1, Raymond 2, Van Winkle 1, Van Winkle 2

72 Hinds County: Precincts of Briarcliff, Byram, Chapel Hill, Dry Grove, Forest Hill, Old Byram, Red Hill, Terry, Utica 1, Utica 2, Woodville Heights

73 Rankin County: Beat 2;

Madison County: Beats 2 and 3

74 Rankin County: Beats 4 and 5

75 Rankin County: Beats 1 and 3

76 Scott County: Beats 1, 2, 4, and 5

77 Newton County;

78 Lauderdale County: Meridian City Precincts 1, 2, 3, 7 and 8, and the County Precincts of School Gap and Nellieburg in Beat 3

79 Lauderdale County: Meridian City Precincts 5, 6, 9, 13, 14, 15, 16, 17, and 18, and the Precinct of East Bonita

80 Lauderdale County: All Precincts in Beat 3 outside the City of Meridian except Obadiah Shucktown, School Gap and Nellieburg;

All Precincts in Beat 4 except Meridian Precinct No. 13;

All Precincts in Beat 5 outside the City of Meridian except East Bonita

81 The Counties of Clairborne and Jefferson;

82 Copiah County: Beat 1, Beat 4, Beat 5 and the Precincts of East Hazlehurst, West Hazlehurst, Barlow, Glancy, and Allen

83 Lawrence County;

Copiah County: Beat 2 and the Precincts of Ainsworth and Martinsville West;

Simpson County: The Precincts of Bridgeport, Pinola, and Shivers

84 Simpson County: Beat 1, Beat 2, Beat 3, Beat 5; the Precincts of Magee North and Magee South

85 Smith County;

Scott County: Beat 2

86 Jasper County: Beats 1, 3, 4, and 5;

Jones County: The Precincts of Gitano, Matthews, and Shady Grove

87 Clarke County;

Jasper County: Beat 2

88 Adams County: Beats 1 and 2, and the Precincts of Liberty Park, Concord, and Palestine

89 Adams County: Beats 4 and 5, and the Precinct of Somerset

90 Franklin County;

Lincoln County: Beat 4, and the Precincts of Caseyville, Loyd Star, Old Red Star, Vaughn, and Zetus

91 Lincoln County: Beat 1, Beat 2, Beat 3; and the Precinct of Northwest Brookhaven

92 Jefferson Davis County: Beats 1, 3, 4, and 5;

Covington County: Beat 3 Beat 4, Beat 5, and the Precincts of South Collins and Eminence

93 Jones County: Beat 2, and the Precincts of West Jones, Mason School, 26th Street Fire Station, and Lamar School

94 Jones County: Beat 3, and the Precincts of Sharon, Sandersville, City Barn, Maddox School, Stone Deavours School

95 Jones County: Beat 4, and the Precincts of Moselle, Pendorf, Pine Grove, Rainey, South Jones, and Shelton

96 Wayne County;

97 Wilkinson County;

Amite County: Beats 1, 2, and 3

98 Amite County: Beats 4 and 5

Pike County: Beats 4 and 5

99 Pike County: Beats 1, 2, and 3

100 Walthall County;

Jefferson Davis County: Beat 2;

Marion County: The Precincts of Goss, Morgantown, White Bluff, Stovall, and Kokomo

101 Marion County: Entire County except the Precincts of Goss, Morgantown, White Bluff, Stovall, and Kokomo

102 Lamar County;

Covington County: Beat 1, and the Precincts of Richmond and Sanford

103 Forrest County: The Precincts of Lillie Burney, Woodley School, Jones School, Petal High, East Bowie, Petal-Harvey, Camp School, and Hawkins Junior High

104 Forrest County: The Precincts of Blair High, Eatonville, Glendale, Petal-Leeville, Rawls Springs, Macedonia, Davis School, Grace Christian, and Pinecrest

105 Forrest County: The Precincts of Central School, Dixie School, Westside, Eaton School, Sunrise, Walthall, Dixie Pine, Rowan High, William Carey, and Thames

106 Forrest County: The Precincts of Forrest County A.H.S., McCallum, McLaurin, Brooklyn, Carnes, and Maxie;

Pearl River County: The Precincts of Poplarville East, Poplarville West, Byrd Line, Hickory Grove, Gum Pond, Wolf River, Oak Hill, Hillsdale, Fords Creek, Buck Branch, White Sand, Mill Creek, Derby, Progress, Silver Run, Steep Hollow, Savannah, McNeill, and Caesar;

Stone County: Beat 2

107 The Counties of Greene and Perry

108 Pearl River County: Beat 4, and the Precincts of Picayune I, II, III, and V; the Precincts of Ozone, Carriere, and Salem

109 George County;

Stone County: Beats 1, 3, 4, and 5

110 Hancock County;

111 Harrison County: The Precincts of Biloxi Nos. 1-4, D'Iberville, North Bay, and White Plains

112 Harrison County: The Precincts of Biloxi Nos. 5-7, 7A-8, Holly Hills, and Howard Creek

113 Harrison County: The Precincts of Stonewall, West Handsboro, Biloxi Nos. 9-11, and East Handsboro

114 Harrison County: The Precincts of Gulfport Nos. 7 and 12, New Hope, E & W Saucier, Gulfport No. 11, Advance, East Lyman, East Orange Grove, Peace, and Poplar Head

115 Harrison County: The Precincts of Gulfport Nos. 4, 5, 6, 8, and 9, East and West Mississippi City, and East and West North Gulfport

116 Harrison County: The Precincts of Gulfport Nos. 13 and 14, Gulfport Nos. 2, 3, and 10, Outside Long Beach, West Orange Grove, West Lyman, and Lizana

117 Harrison County: The Precincts of Gulfport No. 1, East Pass Christian, West Pass Christian, East Long Beach, West Long Beach, Pineville, Delisle, Ladner, Vidalia, and Riceville

118 Jackson County: Beat 1

119 Jackson County: Beat 2

120 Jackson County: Beat 3

121 Jackson County: Beat 4

122 Jackson County: Beat 5

7. Defendants shall order and direct special elections in House Districts 79 and 97 on a date to be specified by the Court. The Court shall refrain from setting dates for special legislative elections until time for an appeal has expired or until the Supreme Court shall have decided an appeal on the merits. The Court retains jurisdiction of the case for the

purpose of setting dates for special elections as soon as one of the above alternatives shall have occurred.

8. Except as hereinabove set forth, all objections and motions for special elections filed by the private plaintiffs and the Department of Justice are denied.

9. All appropriate and legal costs of court are adjudged against defendants, for which judgment, when the amount is computed, will be entered against the State of Mississippi.

10. Plaintiffs' request for an award of attorney's fees is denied.

11. Fees to be allowed the special masters shall be taxed against the State of Mississippi, and the amount of such fees shall be determined after an evidentiary hearing on the reasonableness of such fees, for which jurisdiction is retained.

12. Except for the injunctive relief herein granted, and subject to the Court's retention of jurisdiction stated above, the complaint and amended complaints filed herein are dismissed.

ORDERED, ADJUDGED, AND DECREED on this the 17 day of November, 1976.

/s/ JAS. P. COLEMAN
United States Circuit Judge

For the Court, Composed of

/s/ DAN M. RUSSELL, JR. AND
United States District Judge

/s/ HAROLD COX
United States District Judge
(3 Judge District Court)

Approved as to form:
For the Private Plaintiffs:

/s/ FRANK R. PARKER
Attorney for Private Plaintiffs

For the United States, as
Plaintiff-Intervenor:

/s/ JOSEPH E. BROWN
Attorney for Plaintiff-Intervenor

For the Defendants:

/s/ A. F. SUMMER
Attorney for Defendants

APPENDIX E

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

(CAPTION OMITTED IN PRINTING)

Before COLEMAN, *Circuit Judge;* RUSSELL, *Chief District Judge;* and COX, *District Judge.*

Order Amending Previous Judgment

(filed December 21, 1976)

The Court has before it, and has fully considered plaintiff's objections and motion to alter or amend judgment dated November 29, 1976. We also have before us, and have considered, the analysis of those objections by our Special Master, dated December 8, 1976.

Pursuant thereunto, it is

ORDERED, ADJUDGED AND DECREED that our previous judgments in this legislative reapportionment case are hereby amended to read, for the legislative districts indicated, as follows:

MISSISSIPPI STATE SENATE

Senate Dist. No.		Unit Population	District Population	Variance
28	Madison County	29,737		
	Holmes County: Beats 2 & 3	9,387		
	Yazoo County: The precincts of Benton, Deasonville, Fugates, Eden, Free Run, East Midway, West Midway, Harttown, Carter, & Dover in whatever Beats situated	6,671	45,795	+7.4%
29	Issaquena County	2,737		
	Sharkey County	8,937		
	Holmes County: Beats 1, 4, & 5	13,733		
	Yazoo County: All precincts in whatever Beats situated that are not included in District 28	20,633	46,040	+8.0%

MISSISSIPPI STATE HOUSE OF REPRESENTATIVES

House Dist. No.		Population	Black Population	% Black	Variance
15	Coahoma County: Beat 2; & the Clarksdale precincts in Beats 1 & 3; & Cagle Crossing precinct in Beat 4; & Bobo, Rena Lara & Roundaway precincts in Beat 5	17,260			—5.01
16	Coahoma County: Mattson precinct in Beat 3; & the Clarksdale precincts in Beats 4 & 5	16,882			—7.1

47	Sharkey County	8,937	5,784	64.7	
	Humphreys County: Beat 5; & Silver City precinct in Beat 3	4,307	3,350	77.8	
	Yazoo County: Precincts of Carter, Lake City, Eden, Free Run, East Midway, West Midway, & Harttown in whatever Beats situated	3,120	2,060	66.0	
	TOTALS	16,363	11,194	68.4	—9.9%
48	Humphreys County: Beats 1, 2 & 4; & Lake City precinct in Beat 3	10,295	6,110	59.3	
	Holmes County: Precincts of Coxburg, Tchula, Thornton, & Cruger	6,258	4,625	73.9	
	TOTALS	16,553	10,735	64.9	—8.9%
49	Holmes County: The entire county less the precincts of Coxburg, Tchula, Thornton, & Cruger	16,862	11,118	65.9	—7.2%
53	Warren County: The precincts of Redbone, Yokena, Jett, Fire Station No. 7, American Legion (Blackburn), & St. Aloysius in whatever Beats situated	16,968	7,207	42.5	—6.6%
54	Warren County: The precincts of Culkin, Beechwood, Jonestown, Kings, Cedar Grove, Auditorium, & Central Fire Station in whatever Beats situated	17,559	7,348	41.8	—3.4%
55	Warren County: The precincts of Oak Ridge, Bovina, Redwood, Walters, Brunswick, Tingle, & Goodrum in whatever Beats situated	10,454	3,800	36.3	

Yazoo County: The precincts of Dover, East Bentonia, West Bentonia, Mechanicsburg, Phoenix, Satartia, Deasonville, Fugates, Valley, Enola, Fairview, & Holley Bluff in whatever Beats situated	6,929	3,799	54.8	
TOTALS	17,383	7,599	43.7	—4.3%
56 Yazoo County: The precincts of Center Ridge, Robinette, Zion, East Courthouse, West Courthouse, South City Hall, North City Hall, West Lintonia, & Benton in whatever Beats situated	17,255	8,720	50.5	—5.0%

From the evidence already heard and considered in this case, the remaining objections filed by the plaintiffs are found to be without merit and will be overruled.

So ORDERED this the 17th day of December, 1976.

/s/ JAS. P. COLEMAN
United States Circuit Judge

/s/ DAN M. RUSSELL, JR.
Chief United States District Judge

/s/ HAROLD COX
United States District Judge

APPENDIX F

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI JACKSON DIVISION

(CAPTION OMITTED IN PRINTING)

Notice of Appeal

NOTICE is hereby given that Cliff Finch, Governor of Mississippi, A. F. Summer, Attorney General of Mississippi, Heber Ladner, Secretary of State of Mississippi, Evelyn Gandy, Lieutenant Governor of Mississippi and Presiding Officer of the Mississippi Senate, William B. Alexander, President Pro Tempore of the Mississippi Senate, and C.B. "Buddie" Newman, Speaker of the Mississippi House of Representatives, their officers, agents, servants, employees, attorneys, successors in office, and all persons in active concert or participation with them, defendants above named hereby appeal to the Supreme Court of the United States from Paragraphs 1, 3, 5, 6 and 7 of the Final Judgment of the Three-Judge District Court entered in this action on 17 November, 1976, and the order entered December 21, 1976, amending the Final Judgment.

This appeal is taken pursuant to 28 U.S.C. § 1253.

Dated this the 30th day of December, 1976.

A. F. SUMMER, *Attorney General*
State of Mississippi

GILES W. BRYANT,
Special Assistant AtAttorney General

W. A. ALLAIN,
Special Counsel

JERRIS LEONARD
Special Counsel

/s/ A. F. SUMMER
A. F. Summer
Office of the Attorney General
State of Mississippi
Post Office Box 220
Jackson, Mississippi 39205

APPENDIX G

WEDNESDAY, DECEMBER 8, 1976

Order in Pending Case

A-421 PEGGY J. CONNOR, ET AL V. CLIFF FINCH, GOVERNOR OF MISSISSIPPPPI, ET AL

The requests of Peggy J. Connor, et al, and of the United States to treat the above application as an expedited appeal from the judgment denying injunctive relief entered by the United States District Court for the Southern District of Mississippi in Civil Action No. 3830 (A) on November 18, 1976, are granted. Probable jurisdiction is hereby noted.

The parties may file and exchange such motions under Rule 16 as they desire, and they shall file and exchange briefs on the merits on or before the close of business Monday, February 7, 1977. Responsive briefs, if any, shall be filed and exchanged on or before the close of business Monday, February 21, 1977. Oral argument is set for Monday, February 28, 1977.

It is further ordered that any and all other appeals from the above judgment be taken by filing notices of appeal and perfected pursuant to the Rules of the Court by filing statements as to jurisdiction on or before the close of business Wednesday, January 5, 1977.

In all other respects, the application presented to Mr. Justice Powell and by him referred to the Court is denied.

WBB

APPENDIX H

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

(CAPTION OMITTED IN PRINTING)

Motion for Appointment of Special Master With Instructions, and Reference to Establish Single Member Districts for Hinds, Harrison and Jackson Counties

Come the plaintiffs and move the Court to accept the resignation of William D. Neal, heretofore appointed as Special Master by this Court, and to appoint a Special Master to proceed with the construction of single member districts for Hinds, Harrison and Jackson counties pursuant to this Court's order of May 18, 1971, and the order of the Supreme Court dated January 24, 1972. Plaintiffs would show in support of this motion as follows:

1. In his report dated June 14, 1971, William D. Neal recommended that he be discharged from further duties and responsibilities. Plaintiffs join with Mr. Neal in that recommendation.

2. Without the urgency of forthcoming legislative elections, the next elections being scheduled for 1975, this court has no possible obstacles barring establishment of single member districts for Hinds, Harrison and Jackson counties.

3. A new special master should be appointed with instructions to receive testimony and exhibits, conduct hearings, accept and consider proposed plans from parties and interested persons, draw one or more plans if necessary, and to recommend one or more plans to the court for its final action in the establishment of single member district for Hinds, Harrison and Jackson counties.

4. The new special master should also be instructed to review the plan of apportionment ordered by this court, consider any changes or modifications, to receive testimony and exhibits, conduct hearings, accept and consider proposed plans from parties and interested persons, and to recommend to the court for its final action a new plan of apportionment if necessary or modifications and changes if necessary for the action of this court.

Respectfully submitted,

/s/ George Peach Taylor
George Peach Taylor
/s/ Frank R. Parker
Frank R. Parker
Lawyers' Committee for
Civil Rights Under Law
233 North Farish Street
Jackson, Mississippi 39201

John L. Maxey, II
Barry Powell
Community Legal Services
107 South Farish Street
Jackson, Mississippi

APPENDIX I

United States District Court
Southern District of Mississippi
Jackson Division

Order for Deferment

(Filed January 4, 1973)

The plaintiffs in the above styled and numbered cause have filed a motion before this three-judge court for a further hearing and disposition of this case at this time, but the Court is of the opinion that the matters contained in such motion relating to Hinds County, Harrison County and Jackson County should be referred to the Legislature of the state of Mississippi now in session, and the Legislature should be given a reasonable time to pass upon that legislative question before a hearing on such question is presented here. Under all of the circumstances, the Court is of the opinion that such legislative questions should be presented to and decided by the Mississippi Legislature with finality on or before February 10, 1973, failing in which this Court will promptly thereafter schedule and conduct a hearing requested by the pending motion in this case, and dispose of the matter insofar as this court is concerned promptly thereafter. The plaintiffs as parties in interest here are expressly directed to immediately contact the proper officials of the Mississippi Legislature and make known their contentions and make available to them all data and information intended to be made available to this Court in this case so as to enable the Legislature to hear and decide and dispose of such questions within the time indicated.

The action of the Court on the appointment of a Master will be pretermitted and disposed of by a proper order in necessary detail at a later time.

ORDERED FOR THE ENTIRE COURT, this January 4, A.D., 1973.

/s/ HAROLD COX
United States District Judge

see

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